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GENERAL PROVISIONS

§ 163.1. Discharge or resignation of employes.

When an owner or trainer discharges a groom or other attendant, or when a groom or other attendant voluntarily leaves the employ of an owner or trainer, the owner or trainer shall notify the track police of a discharge of or resignation by an employe. Failure to notify the track police may subject the owner or trainer to a fine or suspension, or both.

§ 163.2. Improper language.

A person may not use improper, profane or indecent language to a racing official.

§ 163.3. Disturbing the peace.

A person may not disturb the peace or make himself obnoxious on the grounds of an association.

§ 163.4. Use of handbooks.

- (a) A person may not make a handbook on the grounds of an association.
- (b) A person may not solicit for or bet from a handbook on the grounds of an association.
- (c) A person may not make a bet with a handbook on the grounds of an association.

§ 163.5. Conduct.

A person on his own behalf or in concert with another person may not expend less than his best effort to win a race in which he participates or give an instruction or undertake course of conduct for other than the purpose of winning.

Source

The provisions of this § 163.5 adopted February 4, 1977, effective February 5, 1977, 7 Pa.B. 390.

Notes of Decisions

Sufficiency of Evidence

Testimony that a videotape of the race in question demonstrated that the licensee performed several acts that were intended to cause, and resulted in, the horse's last-place finish was sufficient to justify the Commission's suspension. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 163.6. Reporting and penalties for violation of rules.

- (a) A person licensed by the Commission or properly brought before it as a witness in an investigative, adjudicative or rulemaking hearing who is in posses-

sion of information regarding attempts or acts done in violation of this chapter or statute affecting racing, shall promptly report the knowledge or information to the stewards, the Commission or its licensed security personnel. Failure to report may result in the imposition of disciplinary actions that the stewards or the Commission deems appropriate.

(b) Violators of this chapter will be subject to ejection from the grounds and to fine, suspension or ruling off.

(c) The stewards may fine, suspend or rule off a person who, in their opinion, has acted to the detriment of racing or violated the rules.

(d) The Commission may refuse to issue or renew a license or may suspend or revoke a license issued if it finds that the applicant, or a person who is a partner, agent, employe or associate of the applicant has done any of the following:

(1) Has been convicted of a crime in a jurisdiction.

(2) Is under an order of suspension or revocation, has been denied a license or has been ruled off by any racing commission or board of stewards.

(3) Is associating with a person who has been convicted of a crime in any jurisdiction.

(4) Has consorted with bookmakers, touts or persons of similar pursuits, or has engaged in similar pursuits.

(5) Is financially irresponsible.

(6) Has been guilty of or attempted fraud or misrepresentation in connection with racing, breeding or otherwise.

(7) Has violated or attempted to violate a law with respect to racing in any jurisdiction or a rule, regulation or order of the Commission.

(8) Has violated a rule of racing adopted by the Commission.

(9) Has engaged in similar practices as set forth in this subsection.

Source

The provisions of this § 163.6 adopted February 4, 1977, effective February 5, 1977, 7 Pa.B. 390.

Notes of Decisions

Sufficiency of Evidence

Section 163.6(d), unlike § 165.96(a) does not require that a licensee have knowledge that he is associating with an individual who has been convicted of a crime. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659, 669 (Pa. Cmwlth. 1988).

Evidence that the licensee told investigators that he was approached by others to take money as part of a race-fixing scheme was sufficient to justify the Commission's suspension. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 163.7. Wagering misconduct.

A licensee or employe of a racing association or its concessionaires may not knowingly, by false representation, attempt to cause another person to wager on a horse in a race to be run nor may he demand compensation as a reward for a

racing prediction provided to a person or entity for wagering purposes. This does not apply to the vending of newspapers or to other publications approved by the Commission.

Source

The provisions of this § 163.7 adopted December 23, 1977, effective December 24, 1977, 7 Pa.B. 3928.

§ 163.8. Liquor and drugs.

A licensee or employe of an association or their concessionaires may not:

- (1) Be under the influence of intoxicating liquor or drug, or both, while within the enclosure of an association.
- (2) Be in possession of, transfer or deal in an unlawful or dangerous drug within the terms of the criminal and drug control statutes of this Commonwealth.

Source

The provisions of this § 163.8 amended through February 3, 1978, effective February 4, 1978, 8 Pa.B. 294.

Notes of Decisions

The rules of racing prohibit a licensee from being under the influence of alcohol or drugs while on the grounds of a racetrack and being in the possession of any unlawful drug. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659 (Pa. Cmwlth. 1988).

This section is not a criminal statute and reference to “terms and meanings of the criminal and drug statutes” is reference to “unlawful or dangerous drug” and not to possession. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659 (Pa. Cmwlth. 1989).

§ 163.9. Possession of firearms.

A licensee, employe of the association or its concessionaires may not possess a firearm within the enclosure unless he has obtained a valid permit for the firearm from the appropriate police authority and unless the firearm is registered in writing with the Commission security office at the track and the director of security of the association.

Source

The provisions of this § 163.9 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3929.

§ 163.10. Gratuities to starters.

A person may not offer to a starter, assistant starter or other racing official nor may a starter, assistant starter or other racing official take compensation, in connection with the running of a race other than for their stated salary.

Source

The provisions of this § 163.10 adopted October 21, 1977, effective October 22, 1977, 7 Pa.B. 3127.

§ 163.11. Financial responsibilities.

When a licensed owner or trainer or their licensed employes, or other persons licensed to engage in racing, suffer a final judgment rendered against him in a court within the United States, which judgment is based wholly on an indebtedness incurred by the person for supplies, equipment or services furnished in connection with horse racing, the stewards, Commission or both, shall issue an order to the licensee advising the licensee that a hearing will be scheduled at which time the licensee should show cause as to why his license should not be suspended until the Commission or stewards is furnished proof that the judgment has been satisfied.

Source

The provisions of this § 163.11 amended November 7, 1980, effective November 13, 1980, 10 Pa.B. 4299. Immediately preceding text appears at serial page (51622).

§ 163.12. Issuance or passing of bad checks.

A person may not issue a check in payment for a license fee, fine, nomination or entry fee or other fees, or for services or supplies when the person knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which it is written does not contain sufficient funds for payment of the check, or that the check is written on a closed account or a nonexistent account.

Source

The provisions of this § 163.12 adopted October 21, 1977, effective October 22, 1977, 7 Pa.B. 3128.

§ 163.13. Misuse of license.

A person may not exercise or attempt to exercise the rights of a license until the appropriate licensing form has been executed and filed with the Commission. The Commission will exercise the power to regulate the conduct of persons holding licenses or who are participating in racing by the use of rights of a licensee.

Source

The provisions of this § 163.13 adopted November 24, 1978, effective November 25, 1978, 8 Pa.B. 3342.

RACING ASSOCIATIONS**§ 163.31. Maintenance of grounds and facilities.**

(a) An association shall maintain its grounds and facilities to be clean and in good repair, with special consideration for the comfort and safety of patrons, employes and other persons whose business requires their attendance; and with special consideration for the health and safety of horses stabled, exercising or entered to race, and shall have available adequate implements to maintain a uniform track, weather conditions permitting.

(b) An association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, and in a sanitary condition. Each barn and stall shall be numbered for identification. Adequate drainage, sufficiently manned fire-fighting equipment and manure removal of the stable area shall be provided and maintained.

(c) An association shall provide and maintain adequate living quarters and conveniently located sanitary facilities such as showers, toilets and wash basins for stable employes.

(d) An association shall surround its grounds with a fence adequate to secure the grounds and exclude unauthorized persons from stable areas.

§ 163.32. Ambulances.

An association shall provide and maintain at least one man-ambulance and at least one horse-ambulance during times horses are permitted to exercise or race. The ambulance shall be equipped, manned, ready for immediate duty and be located at an entrance to the racing strip.

§ 163.33. First-aid facilities.

An association shall equip and maintain adequate first-aid facilities with not less than two beds and attendance of a competent physician and registered nurse during race hours.

§ 163.34. Communication system.

An association shall install and maintain in good service a communication system between the stewards' stand and pari-mutuel department, starting gate and clerk of the scales.

§ 163.35. Telephone and telegraph.

(a) A telephone, telegraph, teletype, semaphore, signal device, radio, television or other method of electrical, mechanical, manual or visual communication may not be installed or employed within the enclosure of a licensee, until approved by the Commission.

(1) Telephones at the track or on the grounds of the association conducting the meeting shall be connected to a central switchboard. The telephones shall

be closed to the public 1 hour prior to the first race of the day. A call is not allowed to be made or received after the telephones are closed until after the last race has been finished, except by the officials of the Commission, by authorized officials of the association or accredited members of the press.

(2) Telegraph wires at the track or on the grounds of the association conducting the meeting shall be closed 1 hour prior to the first race of the day. Wires are not allowed to be sent or received after the telegraph wires are closed until after the last race has been finished except by the officials of the Commission, by authorized officials of the association or accredited members of the press.

(3) Pay station telephones at the tracks or on the grounds of the association conducting the meeting shall be locked by track security 1 hour prior to the first race of the day and remained locked until after the last race has been finished.

(4) The association is responsible to see that unauthorized persons do not use their telephones during the periods mentioned in paragraphs (1)—(3).

(b) An association licensed by the Commission may not knowingly transmit or allow to be transmitted by telephone, telegraph, teletype, semaphore, signal device, radio, television or other method of electrical, mechanical, manual or visual communication from the enclosure of its track, the result of a race until at least 30 minutes after the race is declared official, with the exception of the final race of the program. Associations licensed by this Commission may allow radio or television broadcasts of racing programs upon approval of the Commission.

LICENSING

§ 163.51. Persons required to be licensed.

(a) The following are required to be licensed by the Commission before engaging in an activity related to a race meeting licensed by the Commission. The annual license fees and expiration dates are set forth after each occupation:

- (1) Owner—\$25—June 30.
- (2) Trainer—\$15—June 30.
- (3) Jockey—\$10—December 31.
- (4) Apprentice Jockey—\$10—December 31.
- (5) Assistant Trainer—\$10—June 30.
- (6) Jockey Agent—\$10—December 31.
- (7) Authorized Agent—\$10—June 30.
- (8) Official—\$10—December 31.
- (9) Veterinarian—\$15—December 31.
- (10) Farrier—\$15—December 31.
- (11) Pari-mutuel Employe—\$5—December 31.
- (12) Stable Employe—\$5—December 31.
- (13) Vendor—\$15—December 31.

- (14) Vendor Employee—\$5—December 31.
- (15) Track Employee—\$5—December 31.
- (16) Partnership—\$10—June 30.
- (17) Stable Name—\$50—June 30.
- (18) Duplicate—\$2.

(b) In addition to the individuals listed in subsection (a), Commissioners and Commission employes, agents and representatives are required to be licensed; but there will be no fee charged for the licensure. Licenses issued to Commission employes will be sequentially numbered and will bear the complete name, photograph and job classification of the licensee. Licenses issued under this subsection will be effective for 1 year unless rescinded or revoked. The term, "Commission employe," as used in this subsection, means a person who receives wages or salaries from the Commission.

(c) All 1984 licenses which are indicated in subsection (a) as expiring on June 30 will be issued for the 6-month period of January 1 to June 30, 1984, at 1/2 the listed fee. Other licenses will be effective for a period of 1 year, unless revoked.

(d) Licenses will be issued, at the discretion of the Commission's director of licensing, subject to review by the Commission. In exercising this discretion, the director will consider § 163.56 (relating to requirements).

(e) Prospective licensees shall file an application on Commission forms, agree to be fingerprinted as may be required by the Commission and agree to full disclosure and investigation of criminal and employment records. The filing of an application for licensure shall constitute permission to take the applicant's fingerprints, to investigate criminal and employment records, to engage in interviews to determine applicant's character and qualifications and to verify the applicant's statements. The criminal history and confidential information concerning Commission employes will be maintained separately in secured files by the director of licensing.

(f) Stable name licenses will be issued on a one-time basis, with no need for annual renewal.

Source

The provisions of this § 163.51 amended September 30, 1983, effective October 1, 1983, 13 Pa.B. 2988. Immediately preceding text appears at serial page (68710).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions); 58 Pa. Code § 165.31 (relating to occupational and participation licenses); 58 Pa. Code § 171.41 (relating to facility requirements); and 58 Pa. Code § 171.45 (relating to wagering requirements).

§ 163.52. Farrier's license.

(a) The issuance of a farrier's license shall be dependent upon the ability of the applicant to satisfactorily complete an examination of his capabilities. The

examination of the applicant shall be conducted by an organization or entity appointed by the Commission. In order to complete the examination, the applicant shall attain a satisfactory score. That score shall be determined by the organization giving the examination and approved by the Commission.

(b) Persons holding a farrier's license in this Commonwealth on March 27, 1982 are exempt from the examination requirements of subsection (a). If a license is terminated by action of the Commission or by failure to renew, the examination shall be required for reissuance, unless excused by action of the Commission.

(c) If an applicant fails to satisfactorily complete the farrier's examination, the applicant may apply for retesting no earlier than 14 days after the initial failure and no earlier than 90 days after each subsequent failure.

Source

The provisions of this § 163.52 amended March 26, 1982, effective March 27, 1982, 12 Pa.B. 1048. Immediately preceding text appears at serial page (51626).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions); and 58 Pa. Code § 165.31 (relating to occupational and participation licenses).

§ 163.53. Application on behalf of owner.

A licensed trainer may apply for a license on behalf of the owner he represents by signing the application for the owner's license as if he had the power of attorney from the owner, for example, John Doe, owner per Richard Poe, trainer (signature of applicant).

Source

The provisions of this § 163.53 amended March 4, 1977, effective March 5, 1977, 7 Pa.B. 610.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions); and 58 Pa. Code § 165.31 (relating to occupational and participation licenses).

§ 163.54. Pony and exercise persons.

An applicant for licensure as a pony person or exercise person who is not registered as an employe of an existing licensee may apply for a license if the applicant is approved by the stewards and registered on a separate badge list to be maintained by track security. A current copy shall be filed with the Commission. The person is required to secure confirmation of opportunity to exercise his licensed rights as a condition of both consideration for grant and continuation of a license.

Source

The provisions of this § 163.54 adopted October 19, 1979, effective October 20, 1979, 9 Pa.B. 3523.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions); and 58 Pa. Code § 165.31 (relating to occupational and participation licenses).

§ 163.54a. Application for trainer's test.

(a) A person who wishes to take a trainer's test or assistant trainer's test shall apply in writing from the board of stewards at the race track where he wishes to take the examination. The board of stewards will make a preliminary examination to insure that the applicant has or will have available horses to train and has a knowledge of the training and care of horses. Upon determination by the stewards that the applicant meets the requirements, the applicant shall be eligible to take the trainer's or assistant trainer's examination.

(b) The trainer's test or assistant trainer's test will consist of the following two parts:

(1) The first half of the test will be a practical examination known as the barn test. This test shall be supervised by the Commission steward or his designated representative, and given by a committee of trainers appointed by the Horsemens Benevolent Protective Association and approved by the Commission. Two or more trainers shall be present throughout the test. Upon completion the test shall be filed with the Commission steward.

(2) The other half of the test will be a written examination which will be scheduled and administered by the Commission executive staff.

(c) The applicant shall satisfactorily pass each test by a 75% score. An applicant who fails to pass either examination may apply for retesting no earlier than 14 days after the initial failure and no earlier than 90 days after each subsequent failure.

Source

The provisions of this § 163.54a adopted January 22, 1982, effective January 23, 1982, 12 Pa.B. 394.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.55. Fees.

License fees shall be paid to the Commission and by it paid into the State Treasury through the Department of Revenue and credited to the State Horse Racing Fund. Licenses unless revoked for cause, shall be for the period ending December 31st of the year in which the license was issued. The application shall be in form and contain the information the Commission requires.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.56. Requirements.

If the Commission finds that the experience, character and general fitness of the applicant are such that the participation of the person in thoroughbred horse race meets will be consistent with the public interest and with the best interests of racing generally in conformity with the purpose of the act, the Commission may grant a license. The Commission may refuse to issue a license under this section, if it finds the applicant:

- (1) Has been convicted of a crime involving moral turpitude.
- (2) Has engaged in bookmaking or another form of illegal gambling.
- (3) Has been found guilty of fraud or misrepresentation in connection with racing or breeding.
- (4) Has been found guilty of a violation or attempt to violate a law, rule or regulation of racing in a jurisdiction, for which suspension from racing might be imposed in the jurisdiction.
- (5) Has violated rules, regulations or order of the Commission.
- (6) Is not financially responsible.

Source

The provisions of this § 163.56 amended July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

Cross References

This section cited in 58 Pa. Code § 163.51 (relating to persons required to be licensed); 58 Pa. Code § 163.251 (relating to general provisions); and 58 Pa. Code § 171.41 (relating to facility requirements).

§ 163.57. Suspension or revocation of license.

The Commission may suspend or revoke a license, or the stewards may suspend a license issued under this section, if it determines that:

- (1) The applicant or licensee:
 - (i) Has been convicted of a crime involving moral turpitude.
 - (ii) Has engaged in bookmaking or another form of illegal gambling.
 - (iii) Has been found guilty of fraud in connection with racing or breeding.
 - (iv) Has been guilty of a violation or attempt to violate a law, rule or regulation of a racing jurisdiction for which suspension from racing might be imposed in the jurisdiction.
 - (v) Has violated a rule, regulation or order of the Commission.

Source

The provisions of this § 163.57 amended July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

Notes of Decisions

The defense of entrapment is available in proceedings before administrative agencies as well as in judicial proceedings, where a jockey's license revocation was based on his dealings with another jockey who was being motivated and manipulated by the investigating officers so as to persuade or induce, the revocation must be reversed. *Smith v. Horse Racing Commission*, 501 A.2d 303 (Pa. Cmwlth. 1985); remand 535 A.2d 596 (Pa. 1988).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.58. Exclusion.

Exclusion may occur if the experience, character or general fitness of an applicant or licensee is such that the participation of the person in thoroughbred horse racing or related activities would be inconsistent with the public interest or with the best interests of racing generally.

Notes of Decisions

The defense of entrapment was not available to a jockey who accepted \$500 to fix a future race; however, the entrapment defense may sometimes be available in administrative proceedings. *Smith v. Horse Racing Commission*, 501 A.2d 303 (Pa. Cmwlth. 1985); remand 535 A.2d 596, 599 (Pa. 1988).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.59. Authorization.

Applicants for any form of license or registration issuance receipt or renewal shall be required to complete the authorization for release of confidential or background information as may be required by the Commission. Refusal to complete the authorization shall be an automatic bar to license or registration issuance or renewal.

Source

The provisions of this § 163.59 amended March 4, 1977, effective March 5, 1977, 7 Pa.B. 610.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.60. Spouse disqualification of horses.

Disqualification of one spouse applies to the other only if it can be demonstrated that the horses owned or controlled by the disqualified spouse are also under the ownership or control of the spouse who has not been disqualified.

Authority

The provisions of this § 163.60 issued under the Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.401).

Source

The provisions of this § 163.60 adopted April 9, 1982, effective April 10, 1982, 12 Pa.B. 1177.

COLORS AND EQUIPMENT**§ 163.71. [Reserved].****Source**

The provisions of this § 163.71 reserved August 26, 1977, effective August 27, 1977, 7 Pa.B. 2408.

§ 163.72. [Reserved].**Source**

The provisions of this § 163.72 reserved August 26, 1977, effective August 27, 1977, 7 Pa.B. 2408.

§ 163.73. [Reserved].**Source**

The provisions of this § 163.73 reserved August 26, 1977, effective August 27, 1977, 7 Pa.B. 2408.

§ 163.74. [Reserved].**Source**

The provisions of this § 163.74 reserved August 26, 1977, effective August 27, 1977, 7 Pa.B. 2408.

§ 163.75. Equipment changes.

(a) Permission for changes of equipment from that which a horse carried in his last race shall be obtained only from the stewards and shall be obtained before scratch time on the day when the horse is to run with changed equipment.

(b) Permission for a horse to add blinkers to his equipment or to discontinue the use of them shall be approved by the starter before being granted by the stewards.

ENTRIES AND SUBSCRIPTIONS**§ 163.91. Entry.**

A horse is not qualified to start in a race unless he has been properly entered. Overnight entries shall be made and completed 48 hours prior to the morning of the applicable race program.

Source

The provisions of this § 163.91 amended March 4, 1977, effective March 5, 1977, 7 Pa.B. 610.

§ 163.92. Licensure.

A horse is not qualified to start in a race unless its owner, trainer, jockey and the like have been licensed by the Commission, and evidence of compensation insurance, carried by owners and trainers properly filed.

§ 163.93. Racing Secretary.

The racing secretary shall be the person authorized to receive entries and declarations for the races.

§ 163.94. Entry applications.

Entries 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 are to be made.

§ 163.95. Coupled entries.

(a) The term "entry" means a horse made eligible to run in a race. When starters in a race include two or more horses owned by the same person, they shall be coupled as an entry, with no exceptions. A wager on one horse in the entry shall be a wager on all horses in the entry. If a race is split in two or more divisions, horses in an entry shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.

(b) Horses owned wholly or in part by the same trainer, person or the spouse of the person shall be coupled and run as an entry.

(c) If one horse is scratched after the betting is under way, the remaining horse shall run as a betting entry.

(d) Starters in a race which include two horses of different ownership trained by the same person, trained in the same stable or trained by the same management may not be coupled as an entry and shall constitute separate wagering interests. In no case may more than two horses having common trainer ties as defined in this section start in a race.

Source

The provisions of this § 163.95 amended through August 28, 1981, effective August 29, 1981, 11 Pa.B. 2953; amended October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094. Immediately preceding text appears at serial page (236644).

Cross References

This section cited in 58 Pa. Code § 165.112 (relating to sale of pari-mutuel tickets); and 58 Pa. Code § 165.118 (relating to trifecta).

§ 163.96. Confirmation of entries and scratches.

Entries or scratches may be made by telephone, but shall be confirmed promptly in writing if the stewards, racing secretary or his assistants request. Entries made by telegraph shall be confirmed in writing.

Notes of Decisions*Sufficiency of Evidence*

Evidence that the licensee told investigators that he was approached by others to take money as part of a race-fixing scheme was sufficient to justify the Commission's suspension. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 163.97. Recorded interest.

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

§ 163.98. Joint subscriptions and entries.

Joint subscriptions and entries may be made by any one or more of the owners. The owners are jointly and severally liable for fees and forfeits.

§ 163.99. Identification of horse.

If entered for the first time at a meeting, a horse shall be identified by stating his name, color, sex and age, and the name of his sire and dam, as registered. This description shall be repeated at each entry until the name and descriptions of the horse have been published in the official program or the list of entries of an association. In every entry after that, the name, age and sex of a horse shall be sufficient.

§ 163.100. Cancellation and refusal.

The nominations or entries of a person, or the transfer of a nomination or entry, may be canceled or refused with or without either notice or reason being given.

§ 163.101. Registration.

A horse may not be allowed to enter or start in a flat race unless registered at the Registry Office of The Jockey Club (New York).

§ 163.102. Certification of registration and identification.

A horse may not be allowed to start unless a Jockey Club registration certificate is on file in the office of the horse identifier and the horse has been lip tattooed. If an error or omission on the foal certificate of a horse entered to race which precludes tattooing pending correction or completion of the certificate, the horse may be permitted to run without a tattoo for no longer than a single 30-day grace period. Before the horse is allowed to run during the 30-day grace period, the error or omission shall be noted on a photostatic copy of the certificate and attested to by the stewards and the horse identifier and a complete and attested copy of the certificate shall be retained at the track and filed with the Commission field office where the horse is running, and the correction of the certificate by the Jockey Club has been applied for before or at least at the time of the race, and the horse is identified to the complete satisfaction of the stewards. Only a single grace period is allowed for a horse entered for racing in this Commonwealth.

Source

The provisions of this § 163.102 amended April 14, 1978, effective April 15, 1978, 8 Pa.B. 1113.

Cross References

This section cited in 58 Pa. Code § 165.216 (relating to illegal entries).

§ 163.103. Licensed trainer.

A horse is not permitted to enter or to start unless the horse is in the care of and is saddled by a licensed trainer, licensed assistant trainer or substitute licensed trainer approved by the stewards.

Source

The provisions of this § 163.103 amended March 21, 1980, effective March 22, 1980, 10 Pa.B. 1304.

§ 163.104. Stabling.

A horse is not permitted to enter or to start unless stabled on the grounds of the association, or in stabling approved by the association, except with the permission of the racing secretary.

§ 163.105. Transfers.

(a) A horse is not permitted to start whose name and true ownership is not registered with the racing secretary. Transfers and sales shall be accurately recorded on the foal certificate at the time of the transfer or sale. Sales and transfers shall be deemed to be for consideration and to be clear except for encumbrances expressly noted on the bill of sale form approved by the Commission. A protest or claim may not be considered unless stated in detail upon the bill of sale.

(b) Transfers of horses by trainers upon the grounds that have started at least once at the current meeting shall be recorded with the stewards. A transfer may not be deemed to be effective until it has been recorded.

Source

The provisions of this § 163.105 amended November 24, 1978, effective November 25, 1978, 8 Pa.B. 3341.

§ 163.106. Interests.

Interests in a horse and changes in interests thereafter, except a trainer's percentage of his winnings, shall be filed with the racing secretary, before the horse starts.

§ 163.107. Number of entries.

A horse may not be entered for two races on a single day.

§ 163.108. Eligibility to enter.

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

§ 163.109. Compliance with rules of partnership.

A horse involved in a partnership is not permitted to enter or to start until the rules for the registration of partnerships have been complied with.

§ 163.110. Ownership by disqualified person.

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

§ 163.111. Payment in event of disqualification.

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

§ 163.112. Disqualifications, stewards' list, starters' list and veterinarian's list.

A horse, disqualified in any jurisdiction, or placed on the stewards' list, starters' list or veterinarians' list in any jurisdiction, is not allowed to be entered or to start in a race without permission of the stewards.

Source

The provisions of this § 163.112 amended February 1, 1980, effective February 2, 1980, 10 Pa.B. 470.

§ 163.113. False representation.

(a) A horse is not allowed to enter or start if the Commission or a board of stewards has previously ruled that the horse was knowingly entered or raced under a name other than its own as set forth on its foal certificate by a person having lawful control of it at the time.

(b) A horse is not allowed to enter or start if the Commission or a board of stewards has previously ruled that the person having lawful custody of the horse knowingly participated in the entry, starting or attempted entry or starting of the same or another horse under other than its own name as set forth on its foal certificate.

Source

The provisions of this § 163.113 adopted December 23, 1977, effective December 24, 1977, 7 Pa.B. 3930; amended June 12, 1981, effective June 13, 1981, 11 Pa.B. 2058. Immediately preceding text appears at serial page (51636).

§ 163.114. Entry of horses on lists.

A horse on the starter's list, veterinarian's list or stewards' list is not qualified to be entered or to start.

§ 163.115. Sale to disqualified person.

If a horse is sold to a disqualified person, the horse's racing engagements are void as of the date of sale.

§ 163.116. Owner in arrears.

A horse is not allowed to enter or to start in a race if the owner of that horse is in arrears, except with the approval of the racing secretary.

§ 163.117. Allowance race.

Not more than two horses of the same interest may be entered in an allowance race.

§ 163.118. Determination of starters in divided races.

In divided races, the starters in the separate divisions shall be determined by lot.

§ 163.119. Double entry in the same ownership.

A trainer may not enter more than two horses in a purse race or overnight event. A trainer may enter and start two horses, of separate ownership, in a purse race or overnight event. When making a double entry in the same ownership, the owner or trainer shall express a preference. Two horses may not start in the same ownership to the exclusion of a single entry.

§ 163.120. Unclosed races.

The association has the right to withdraw or change an unclosed race.

§ 163.121. Insufficient entries.

If a race is declared off because of insufficient entries, the association may split an overnight race which may have closed and cause a new drawing for post positions.

§ 163.122. Sweepstakes.

- (a) An entry in a sweepstakes is a subscription and cannot be withdrawn.
- (b) If a horse is excused from the race by the stewards before off time, the starting fee shall be refunded.
- (c) If a horse is locked in the gate and the conditions of that race include fees, nominating or starting, the fees shall be returned to the owner of a horse prevented from participating in that race. If a race is not run, the fees shall be returned to the owners.

§ 163.123. Liability of fees.

The nominator is liable for the entrance money or stake, and the death of an entered horse or a mistake in his entry, if eligible, does not release the nominator or transferees from the liability; nor may the entrance money or stake of an eligible horse to a race which is run off be returnable for the failure of the entry to start.

§ 163.124. Death of nominator or subscriber.

Except in a match race, no entry, subscription or right of entry under it, shall become void on the death of the nominator or subscriber. The rights follow the horse.

§ 163.125. Closing of races.

Entries shall be closed at an advertised time, and no entry accepted thereafter. The racing secretary may postpone closing of overnight races.

§ 163.126. Closing for overnight races.

Entries for overnight races shall close at the time announced by the racing secretary in the condition book. The time may not be less than 48 hours prior to the time of the running of the races for which the entry is being made.

Source

The provisions of this § 163.126 adopted April 20, 1973, effective April 21, 1973, 3 Pa.B. 729.

§ 163.127. Closing.

(a) Except in overnight races, if the hour for closing of entries or for declarations is not stated, it is understood to be midnight at the close of the day specified.

(b) Nomination for stake races received and postmarked before midnight of the day of closing are valid if received 24 hours in advance of the publication of weights, if a handicap; or 24 hours in advance of the closing of overnight entries, if another type of race.

(c) Nominations for stake races may not close nor may an eligibility payment be due on a day on which the United States Post Office is not open for business. If an association or entity accepting stakes engagements or eligibility payments closes a stake or schedules an eligibility payment on a day when the United States Postal Service nearest the nominator's home of record is not open, a postmark on or before midnight of the next day immediately following on which the United States Post Office nearest the residence of the nominator is open will be acceptable under this chapter.

Source

The provisions of this § 163.127 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3930.

§ 163.128. Miscarriage of nominations and declarations.

If a miscarriage of a nomination or declaration in a stake race is claimed, satisfactory proof that it was mailed or telegraphed shall be presented within a reasonable time, or the evidence will not be considered.

§ 163.129. Compilation of entries.

Entries which have closed shall be compiled without delay by the racing secretary and conspicuously posted.

§ 163.130. Number of horses to compete.

(a) In the absence of specific conditions, the maximum number of starters in a race shall be limited to the number of starting positions afforded by the association starting gate and extensions thereof. The maximum number of starters is further limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, can be afforded a fair start. When an entry in a stakes race is denied the opportunity of starting because the number of entries exceed the capacity of the stall gate starting machine and extensions thereof, it will be entitled to refund of nomination or entry box fee or both. In handicap stakes preference will be given to high-weights. In allowance stakes preference will be established by the amount of total winning purses.

(b) The number of starters in an overnight race is limited by the width of the track at the starting post, the maximum number to be determined by the stewards. The number of starters shall be reduced to the proper number by lot or by division, also by lot of the race, at the option of the association.

Authority

The provisions of this § 163.130 issued under the Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.402).

Source

The provisions of this § 163.130 amended June 18, 1982, effective June 19, 1982, 12 Pa.B. 1871. Immediately preceding text appears at serial page (51639).

§ 163.131. Correction of errors in entries.

An alteration may not be made in an entry after the closing of entries, but an error may be corrected.

§ 163.132. Timed workouts.

A horse which has not started for a period of 30 days or more is ineligible to race until it has completed a timed workout satisfactory to the stewards prior to the day of the race in which it is entered. A workout following the entry of a horse shall appear on the official daily racing program.

Source

The provisions of this § 163.132 adopted September 22, 1972, effective September 23, 1972, 2 Pa.B. 1774.

§ 163.133. Qualifications of horses to start.

Before a horse is permitted to start, the stewards shall be satisfied that its published past performance, whether in races or workouts, is of sufficient number to enable the public to make a reasonable assessment of its capabilities and may require them as a condition of entry.

Source

The provisions of this § 163.133 adopted December 23, 1977, effective December 24, 1977, 7 Pa.B. 3931.

§ 163.134. Prohibition of entries by officials or racing association members.

(a) An official or member of the board of directors of a racing association may not enter a horse in a race meeting conducted by the association in which his office or directorship is held.

(b) When two or more race meetings of two or more associations are run consecutively and considered as one meeting for claiming purposes, an official or director of the associations may not enter a horse in any portion of the meeting conducted by the sharing associations.

(c) A person owning, either legally or beneficially, more than 5% of the shares of an association may not enter a horse in a race meeting conducted by the association in which the interest is held.

(d) When two or more race meetings of two or more associations are run consecutively and considered as one meeting for claiming purposes, a person owning, either legally or beneficially, more than 5% of the shares of the association may not enter a horse in a portion of the meeting conducted by the sharing associations.

(e) Subsections (a)—(d) do not apply to a person or an official, partnership, association, corporation or other legal entity which would be subject to this section at the time of its adoption. Subsections (a)—(d) may further be waived by the Commission upon application and for a particular race only.

Source

The provisions of this § 163.134 adopted December 21, 1973, effective December 22, 1973, 3 Pa.B. 2922.

§ 163.135. Proper certification of ownership.

A horse shall be considered to be owned by the person or other entity whose name appears in the proper place upon the foal certificate for the horse. Absent the proper name a sworn statement as to ownership may be accepted together with other pertinent information required by the Commission. Upon acceptance of the sworn statement and other required pertinent information, the Commission will direct the name of the person making the affidavit to be inserted at the proper place upon the foal certificate showing the affiant to be the true owner. If a horse is leased, the lease agreement shall accompany the foal certificate or sworn statement, or both, otherwise showing proper ownership of the leased horse. The lease agreement shall be subject to the approval of the Commission.

Source

The provisions of this § 163.135 adopted December 21, 1973, effective December 22, 1973, 3 Pa.B. 2922.

DECLARATIONS AND SCRATCHES**§ 163.151. Declarations and scratches.**

(a) A horse may not be considered scratched or declared out of an engagement until the owner or his authorized agent or some person deputed by him has given notice in writing to the racing secretary.

(b) A horse in an overnight race may not be scratched without the approval of the stewards.

(c) For stake races, if a horse is not named through the entry box at the time designated by the racing secretary, the horse is automatically out.

(d) The declaration or scratch of a horse out of an engagement is irrevocable.

(e) Scratches from stake races will close 45 minutes before post time.

(f) Declaration and scratches from purse races shall be made to the racing secretary by the owner, or his authorized agent at a time which was set by the racing secretary and conspicuously posted.

(g) If the miscarriage of a declaration by mail or otherwise is alleged, satisfactory proof of the miscarriage is required of the complainant; otherwise, the declaration will not be accepted as of the time alleged.

WEIGHTS, PENALTIES AND ALLOWANCES

§ 163.161. Weights, penalties and allowances.

(a) The following weights are carried when the weights are not stated in the conditions of the race:

(1) **SCALE OF WEIGHTS FOR AGE**

	January	February	March	April	May	June	July	August	September	October	November	December
ONE-HALF MILE												
2.....	x	x	x	x	x	x	x	105	108	111	114	114
3.....	117	117	119	119	121	123	125	126	127	128	129	129
4.....	130	130	130	130	130	130	130	130	130	130	130	130
5 and up	130	130	130	130	130	130	130	130	130	130	130	130
SIX FURLONGS												
2.....	x	x	x	x	x	x	x	102	105	108	111	111
3.....	114	114	117	117	119	121	123	125	126	127	128	128
4.....	129	129	130	130	130	130	130	130	130	130	130	130
5 and up	130	130	130	130	130	130	130	130	130	130	130	130
ONE MILE												
2.....	x	x	x	x	x	x	x	x	96	99	102	102
3.....	107	107	111	111	113	115	117	119	121	122	123	123
4.....	127	127	128	128	127	126	126	126	126	126	126	126
5 and up	128	128	128	128	127	126	126	126	126	126	126	126
ONE MILE AND A QUARTER												
2.....	x	x	x	x	x	x	x	x	x	x	x	x
3.....	101	101	107	107	111	113	116	118	120	121	122	122
4.....	125	125	127	127	127	126	126	126	126	126	126	126
5 and up	127	127	127	127	127	126	126	126	126	126	126	126
ONE MILE AND A HALF												
2.....	x	x	x	x	x	x	x	x	x	x	x	x
3.....	98	98	104	104	108	111	114	117	119	121	122	122
4.....	124	124	126	126	126	126	126	126	126	126	126	126
5 and up	126	126	126	126	126	126	126	126	126	126	126	126

(2) In races of intermediate lengths, the weights for the shorter distance are carried.

(3) In races exclusively for 3-year-olds or 4-year-olds, the weight shall be 126 pounds, and in races exclusively for 2-year-olds, it shall be 122 pounds.

(4) In a race, except handicaps and races where the conditions expressly state to the contrary, the scale of weights shall be less, by the following: for fillies 2 years old, 3 pounds; for mares 3 years old and upwards, 5 pounds, before September 1 and 3 pounds thereafter.

- (5) In all overnight races except handicaps, not more than 6 pounds may be deducted from the scale of weights for age, except for allowances, but in no case may the total allowances of any type reduce the lowest weight below 101 pounds, except that this minimum weight need not apply to 2-year-olds or 3-year-olds when racing with older horses.
- (6) In overnight handicaps and in claiming handicaps, the top weight may not be less than 122 pounds.
- (b) Weight penalties are obligatory.
- (c) Weight allowance, including apprentice allowance, shall be claimed at time of overnight entry.
- (d) The weight allowance may not be abandoned after the posting of entries except by consent of the stewards.
- (e) Penalties and allowances of weight are not cumulative, unless so declared by the conditions of a race.
- (f) A horse shall start with only the allowance of weight to which he is entitled at the time of starting, regardless of his allowance at the time of entry.
- (g) A horse incurring weight penalties for a race is not entitled to the weight allowances for that race.
- (h) A horse not entitled to the first weight allowance in a race is not entitled to the second, and so on.
- (i) A claim of weight allowance to which a horse is not entitled does not disqualify unless protest is made in writing and lodged with the stewards at least 60 minutes before post time.
- (j) A horse may not incur a weight penalty or be barred from a race for having been placed second or lower in a race.
- (k) A horse may not be given a weight allowance for failure to finish second or in any lower place in a race.
- (l) Penalties incurred in steeplechase or hurdle races do not apply to races on the flat or vice versa.
- (m) When the decision of a race is in dispute, the horses involved in the dispute with respect to the credit of the winner shall be liable to the weight penalties attached to the winning of that race until a winner has been adjudged.
- (n) Eligibility, penalties and allowances of weight for races will be determined after considering the reports, records and statistics published by the *Daily Racing Form and Morning Telegraph*.
- (o) A race not reported in *Daily Racing Form or Morning Telegraph* may not be considered unless otherwise stated in the conditions of the race, except that, in the case of an imported horse, the racing record of the horse shall be filed with the racing secretary prior to time entry is made to qualify for eligibility. This section does not apply in the classification of maidens.
- (p) A horse may not incur a weight penalty for a placement from which he is disqualified, but a horse placed through the disqualification of another horse shall incur the weight penalties of that placement.

(q) A horse involved in a dead heat for first place is liable to weight penalty for the amount received.

§ 163.162. Weighing out.

(a) The specified jockeys shall be weighed out for their respective mounts in each race by the clerk of the scales not less than 20 minutes before the time fixed for the race. In case of a substitution of riders after the original rider has been weighed out, the substitute rider shall be weighed as promptly as possible and the name of the substitute and his weight publicly announced and posted.

(b) The weight of a jockey shall include his clothing, boots, goggles, saddle and its attachments, number cloth, saddle cloth or other equipment required by the stewards.

(c) The following items may not be included in the weight of a jockey: whip, or a substitute for a whip, head number, bridle, bit or reins or safety helmet.

(d) A bridle may not exceed 2 pounds in weight, and a whip may not exceed 1 pound in weight, unless approved by the stewards. A whip may not be longer than 30 inches.

(e) A jockey may not carry overweight in excess of 2 pounds without permission of the owner or trainer. A horse is not allowed to carry an excess of 7 pounds.

Source

The provisions of this § 163.162 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3931.

§ 163.163. Weighing in.

(a) After a race has been run and after the jockey has pulled up the horse he had ridden, the jockey shall ride promptly to the placing judges' stand and there dismount, after obtaining permission from the judges, and present himself to the clerk of the scales to be weighed in.

(b) If a jockey is prevented from riding his mount to the judges' stand because of an accident or of illness either of himself or his horse, he may walk or be carried to the scales, or he may be excused by the stewards from weighing in.

(c) Except by permission of the stewards, every jockey shall, upon returning to the placing judges' stand, unsaddle the horse he has ridden and no person may touch the horse except by his bridle.

(d) A person may not assist a jockey in removing from his horse the equipment that is to be included in the weight of a jockey, except by permission of the stewards.

(e) A person may not throw a covering over a horse at the place of dismounting until the jockey has removed the equipment that is to be included in his weight.

(f) A jockey may not, before weighing in, willfully touch a person or thing, other than the equipment that is to be included in his weight.

(g) Each jockey shall, in weighing in, carry over to the scales the pieces of equipment with which he weighed out.

(h) Each jockey shall weigh in at the same weight as that at which he weighed out, and if short of it by more than 2 pounds his mount shall be disqualified.

(i) A jockey may not weigh in at more than 2 pounds over the weight at which he weighed out, except insofar as the weight may have been affected by the elements.

Cross References

This section cited in 58 Pa. Code § 163.381 (relating to duties of placing judges).

JOCKEYS AND APPRENTICES

§ 163.171. Jockey's license.

(a) A jockey shall obtain a license from the Commission.

(b) No person under 16 years of age or younger will be granted a jockey's license.

(c) A jockey or apprentice may be allowed to ride in two races before being granted a first license, pending approval of the license by the stewards.

(d) The stewards may permit a jockey to ride pending action on an application.

(e) A licensed jockey may not be the owner or trainer of a race horse.

Authority

The provisions of this § 163.171 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.171 amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial page (144490).

§ 163.172. Weighing out of jockeys.

A jockey shall present himself to be weighed out at the time fixed by the clerk of the scales.

§ 163.173. Fulfillment of engagements.

A jockey shall faithfully fulfill all engagements in respect to racing.

Notes of Decisions

Sufficiency of Evidence

Testimony that a videotape of the race in question demonstrated that the licensee performed several acts that were intended to cause, and resulted in, the horse's last-place finish was sufficient to justify the Commission's suspension. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 163.174. Racing against starter of same contract employer.

A jockey may not ride in a race against a starter of his contract employer unless his mount and contract of the starter of the employer are both in the hands of the same trainer.

§ 163.175. Appearance.

In riding a race a jockey shall be neat in appearance. A jockey shall wear conventional attire and the racing color of the owner of the horse he is riding.

§ 163.176. Helmets.

It is mandatory that jockeys wear a protective helmet which has been approved by the Commission when riding in races or when exercising horses.

§ 163.177. Identification.

A jockey shall wear a number on his right arm and it and the saddle cloth number shall correspond to the number of the horse in the official program.

§ 163.178. Reporting before race.

A jockey who is engaged to ride in a race shall report to the scale room on the day of the race at the time required by the officials. A jockey shall then report his engagements and overweight, if any, to the clerk of the scales, and thereafter, except with the permission of the stewards, may not leave the jockey room, except to view the races from a point approved by the stewards or to ride in a race, until all of his engagements of the day have been fulfilled.

§ 163.179. Examination of jockeys by licensed physicians.

Before the commencement of a racing season, a jockey shall be examined by a licensed physician, designated by the board of stewards in order to establish his physical condition and freedom from disabling defects or contagious disease. During the conduct of a meeting, the board of stewards may require that a jockey be reexamined and may refuse to allow the jockey to ride until he successfully passes the examination.

§ 163.180. Betting limitations.

A jockey may not make a bet on a race nor accept the promise or the token of a bet, with respect to the race in which he is riding, except through or from the owner or trainer of the horse he rides, and then only on that horse.

§ 163.181. Jockey's fees.

(a) Jockey's riding fees are as follows:

<i>Purse</i>	<i>Win</i>	<i>Second</i>	<i>Third</i>	<i>Losing Mount</i>
\$400 and Under	\$27.00	\$19.00	\$17.00	\$16.00
\$500	30.00	20.00	17.00	16.00
\$600	36.00	22.00	17.00	16.00
\$700-900	10% of Win Purse	25.00	22.00	20.00
\$1,000- 1,400	10% of Win Purse	30.00	25.00	22.00
\$1,500- 1,900	10% of Win Purse	35.00	30.00	28.00
\$2,000- 3,400	10% of Win Purse	45.00	35.00	33.00
\$3,500- 4,900	10% of Win Purse	55.00	45.00	35.00
\$5,000- 9,900	10% of Win Purse	65.00	50.00	40.00
\$10,000- 14,900	10% of Win Purse	5% of Place Purse	5% of Show Purse	45.00
\$15,000- 24,900	10% of Win Purse	5% of Place Purse	5% of Show Purse	50.00
\$25,000- 49,900	10% of Win Purse	5% of Place Purse	5% of Show Purse	60.00
\$50,000 and Up	10% of Win Purse	5% of Place Purse	5% of Show Purse	75.00

(b) If an owner or trainer engages two or more jockeys for the same race, the owner or trainer shall pay a fee for each engaged jockey not riding in the race as determined by the stewards as well as the proper fee to the jockey who does ride.

(c) A jockey's fee is considered earned when the jockey is weighed out by the clerk of the scales. The fee is not considered earned if the jockey of his own free will, takes off his mount where injury to the horse or rider is not involved. A condition not covered by this section shall be at the discretion of the stewards.

(d) In a dead heat, the jockeys involved shall divide equally the sum total of the fees they would have received individually had one beaten the other. Likewise, the owners of the horses involved shall pay their equal share.

Source

The provisions of this § 163.181 amended through November 24, 1978, effective November 25, 1978, 8 Pa.B. 3342.

Notes of Decisions

Promulgation of a rule setting fees for jockeys is within the Commission's power where it reasonably determines that in order to deter criminal influence in the horse racing industry, it is vital to guarantee adequate fees for jockeys. *Gilligan v. Horse Racing Commission*, 422 A.2d 487 (Pa. 1980).

§ 163.182. Designated race rule.

(a) A jockey who is serving a suspension of 10 days or less may be permitted to ride in a designated race during the suspension if the following apply:

(1) The race has been specified as a designated race by the racing secretary of the association before the beginning of the race meeting of the association.

(2) The race has been approved as a designated race by the board of stewards officiating at the race meeting.

(3) The jockey is named to ride in the designated race no later than at the time set for the close of entries for the race.

(4) The jockey agrees to serve an additional day of suspension in place of the day on which the jockey rides in a designated race.

(b) Reciprocity of this rule shall be at the stewards' sole discretion and shall apply only to those states which have also adopted the designated race rule or its equivalent.

Authority

The provisions of this § 163.182 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.182 amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial page (144493).

Cross References

This section cited in 58 Pa. Code § 163.366 (relating to fines and suspension).

§ 163.183. Forfeiture.

A forfeiture shall be paid by the jockey himself and any other person paying it shall be subject to punishment.

§ 163.184. Agents.

A jockey may have only one agent. Engagements to ride, other than those for his contract employer, shall be made by the jockey's agent.

§ 163.185. Valet-attendants.

A jockey may not have a valet-attendant other than those provided by the association.

§ 163.186. Retaining jockeys.

An employe retaining the same jockey has precedence according to the priority of the retainer as specified in the contracts.

§ 163.187. Jockey apprentices.

(a) A jockey apprentice is bound by this chapter, except if this chapter is in conflict with this specific regulation for apprentices.

(b) Apprentice contracts and certificates entered into in this Commonwealth shall be made on forms supplied by the Commission, and a copy shall be filed with the Commission.

(c) A copy of apprentice contracts and certificates, wherever entered into, shall be filed with the Commission.

(d) If an apprentice contract is transferred, the transfer shall be approved by the stewards and registered with the Commission by both the transferor and the transferee.

Authority

The provisions of this § 163.187 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. 325.202(a)).

Source

The provisions of this § 163.187 amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial page (144494).

§ 163.188. Contracts.

The jockey or apprentice shall be bound by written contract approved by and filed with the Commission to an owner or trainer for a term of not less than 3 nor more than 5 years, subject to a written extension, if made for less than 5 years. After at least 1 year service with a racing stable, an apprentice may claim weight allowances in all overnight races, except handicaps or stakes races. A person is not allowed to hold a contract on a jockey or apprentice jockey unless that person is in control or possession of a stable or horse that would, in the opinion of the stewards of the meeting where the jockey or apprentice jockey applies for a license, warrant the employment of a contract jockey or apprentice jockey.

Authority

The provisions of this § 163.188 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.188 amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial page (144494).

§ 163.189. Apprentice jockeys.

(a) A person 16 years of age or older who has never been licensed as a jockey in any country or if under age, with the written consent of that person's parents or guardian, may apply to become an apprentice jockey. An application for a license as apprentice jockey shall be accompanied by an original, a notarized or photostatic copy of the agreement with the contract employer and written proof of at least 1 year service with a racing stable, a birth certificate or satisfactory evidence of the date of birth.

(b) An apprentice jockey is not permitted to ride for another person except his contract employer, without the consent of the employer.

(c) The following requirements shall be accomplished satisfactorily by a person desiring an apprentice jockey certificate and the privilege of riding races at tracks in this Commonwealth:

(1) Employment on the backside of a race track, including exercising horses on the track.

(2) Attending and reviewing video tapes of races in jockeys' quarters, as scheduled by the stewards. The applicant may ask questions of stewards and jockeys. The applicant shall leave the jockeys' quarters, immediately following the showing of video tapes and the question and answer period.

(3) Observing jockeys and horses break from the gate, at the start of races under the supervision of a starter, for at least 15 racing days and at least 5 races per racing day.

(4) Observing horses changing leads at the 1/4, 3/8 and 7/8 poles and observing horses and jockeys approaching the finish line and finishing the race. The observations shall take place during races, for at least 10 racing days with at least 5 races per racing day.

(5) Participating in as many schooling races as possible through the cooperation of the racing secretary and informing two or more members of the board of approval of application for apprentice license as soon as the applicant has been notified of acceptance to ride in the schooling race.

(6) Breezing horses from the gate satisfactorily with a whip at least twice in the presence of two or more members of the board of approval.

(7) Riding with competence two parimutuel races without a whip under a temporary apprentice jockey certificate. The applicant will be observed by the board of approval during the races.

(d) A regular apprentice jockey's license will be issued by the stewards, upon notification of the recommendation of a majority of the members of the board of approval, unless withheld by the Commission.

(e) The board of approval was formed to aid and further the safety of the applicant, other riders and horses in races in this Commonwealth.

Authority

The provisions of this § 163.189 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.189 amended March 19, 1982, effective March 20, 1982, 12 Pa.B. 994; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial pages (144494) to (144495).

§ 163.190. Weight allowances in overnight races.

(a) A certified apprentice jockey may claim the following weight allowances in all overnight races except stakes and handicaps:

(1) A 10 pound allowance beginning with the first mount and continuing until the apprentice has ridden five winners.

(2) A 7 pound allowance until the apprentice has ridden an additional 35 winners.

(3) If an apprentice has ridden a total of 40 winners prior to the end of 1 year from the date of riding the fifth winning mount, the apprentice jockey may claim an allowance of 5 pounds until 1 year from the date of the fifth winning mount.

(b) If after 1 year from the date of the fifth winning mount the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for 1 additional year or until the 40th winner, whichever comes first. A weight allowance may not be claimed for more than 2 years from the date of the fifth winning mount, unless an extension has been granted under this section.

(c) A contracted apprentice may claim an allowance of 3 pounds for an additional year when riding horses owned or trained by the original contract employer. The holder of the contract at the time the apprentice rides the fifth winner shall be considered the original contract employer.

Authority

The provisions of this § 163.190 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.190 amended October 21, 1977, effective October 22, 1977, 7 Pa.B. 3128; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial pages (144495) to (144496).

§ 163.191. Applications for extensions.

(a) The Commission has the authority to grant an allowance extension of an apprentice jockey if, in the discretion of the Commission, an apprentice jockey is unable to continue riding due to one of the following and has provided the Commission with appropriate documentation verifying the following:

(1) Physical disablement or illness.

- (2) Military service.
 - (3) Documented attendance in an institution of secondary or higher education.
 - (4) Restriction on racing.
 - (5) Other valid reasons found by the Commission.
- (b) To qualify for an extension, an apprentice jockey shall have been rendered unable to ride for at least 7 consecutive days during the period in which the apprentice was entitled to an apprentice weight allowance. Under exceptional circumstances, total days lost collectively will be given consideration.

Authority

The provisions of this § 163.191 amended under section 202(a) of the Race Horse Industry Reform Act (4 P. S. § 325.202(a)).

Source

The provisions of this § 163.191 amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5780. Immediately preceding text appears at serial page (144496).

§ 163.192. Loss of apprentice allowance.

A licensed apprentice who loses his apprentice allowance shall obtain a jockey license before being permitted to ride again.

§ 163.193. Use of whips.

Whips may not be used on 2-year-olds prior to April 1st.

§ 163.194. Use of spurs.

The use of spurs by a jockey is prohibited.

§ 163.195. Apprentice jockey certificate.

(a) An apprentice jockey may be granted an apprentice jockey certificate issued by the stewards, in lieu of an apprentice jockey contract, under this chapter covering apprentice jockeys. A copy of his certificate shall be filed with the Commission. Winning records of jockeys with apprentice certificates shall be recorded and attested by the clerk of scales who shall record date, track and be verified on each line as provided on jockey's apprentice certificate.

(b) A jockey apprentice certificate issued by other racing commissions or agencies engaged in racing may be approved by the stewards. Approvals shall be in writing and along with a copy of the jockey apprentice certificate be filed with the Commission.

(c) If an apprentice jockey contract is terminated and an apprentice certificate is issued or an apprentice jockey with a certificate is engaged under contract, the certificate and contract shall be attached and become his riding record.

Source

The provisions of this § 163.195 adopted June 18, 1976, effective June 19, 1976, 6 Pa.B. 1417.

ENGAGEMENTS OF THE RIDERS AND EMPLOYES**§ 163.211. Engagements of the riders and employes.**

(a) A contract, or a copy thereof, between jockeys and their employers shall be filed with the Commission.

(b) A contract employer may not have an interest in the earnings of a jockey.

(c) A jockey agent shall keep, on a form provided by the association, a record by races of all engagements made by him, for the jockeys the agent is handling. This record shall include the day and the hour of making of each engagement and the calls shall be numbered in the order of their priority whenever more than one is given for any rider in any race. This record shall be kept up-to-date and held ready at all times for inspection by the stewards or the clerk of the scales.

(d) A rival claim for the services of a rider shall be adjudged by the stewards in the light of the records submitted by the jockey agents.

(e) A jockey agent may handle up to two riders but no more, and a jockey agent may not make or assist in the making of an engagement for a rider other than those he is authorized to represent.

(f) A jockey agent is not permitted within the saddling enclosure during racing hours; nor is the agent allowed on the track proper at the conclusion of a race run; nor may the agent have access to the jockey quarters or communicate with a jockey during racing hours.

Source

The provisions of this § 163.211 adopted July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

FROM PADDOCK TO FINISH**§ 163.221. Parading.**

The stewards may permit a horse to be excused from parading and be led to the post.

Cross References

This section cited in 58 Pa. Code § 163.226 (relating to distance of parading).

§ 163.222. Exercising.

(a) Permission shall be obtained from a steward to exercise a horse between races unless the horse is being warmed up, on the way to and just prior to entering the paddock for the next race to be run.

(b) If a horse is being warmed up before entering the paddock, his official program number shall be displayed by the rider.

§ 163.223. Saddlecloth numbers.

In a race each horse shall carry a conspicuous saddlecloth number corresponding to his number on the official program. In the case of an entry, each horse making up the entry shall carry the same number with distinguishing letter. For example, 1, -1a, -1X. In the case of a field, the horse comprising the field shall carry an individual number, that is, 12, 13, 14, 15 and so on.

§ 163.224. Horses to be in paddock before post time.

Horses shall be in the paddock at least 15 minutes before post time, or at the discretion of the stewards.

Source

The provisions of this § 163.224 amended July 25, 1980, effective July 26, 1980, 10 Pa.B. 3108. Immediately preceding text appears at serial page (51655).

§ 163.225. Saddling.

A horse shall be saddled in the paddock.

§ 163.226. Distance of parading.

A horse shall parade a distance that is reasonable and proper in the opinion of the stewards, unless excused by the stewards as provided in § 163.221 (relating to parading). If a horse is excused from parading and is led to the post, he shall pass over the same route as that followed by the parade.

§ 163.227. Weights from paddock to post.

A horse shall carry his respective weights from paddock to post.

§ 163.228. Order of parading.

A parading horse shall pass the stewards' stand in the numerical order of their exhibited number. Only a horse being led by the parade leader, or excused from parading, may parade out of numerical order.

§ 163.229. Horses in the track.

(a) After the horses enter the track, the jockey may not dismount and the horse is not entitled to the care of an attendant without consent of the stewards or the starter.

(b) After entering the track, not more than 12 minutes shall be consumed in the parade of the horses to the post except in case of unavoidable delay. After passing the stand once, horses will be allowed to break formation and canter, warm up or go as they please to the post. When horses have reached the post, they shall be started without unnecessary delay.

§ 163.230. Accidents from paddock to post.

(a) In case of accident to a jockey, his mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay, and may permit all jockeys to dismount and all horses to be attended during the delay.

(b) If a jockey is thrown on the way from the paddock to the post, the horse shall be remounted, return to the point where the jockey was thrown and then proceed over the route of the parade to the post.

(c) If the jockey is so injured on the way to the post as to require another jockey, the horse shall be taken to the paddock, another jockey obtained and then ridden over an uncompleted portion of the exact route of the parade to the starting point.

§ 163.231. Exit and return to course during parade.

If a horse leaves the course while moving from paddock to post, he shall return to the course at the nearest practical point to that at which he left the course, and shall complete his parade to the post from the point at which he left the course.

§ 163.232. Delay of arrival.

A person may not willfully delay the arrival of a horse at the post.

§ 163.233. Post time.

Post time of each race shall be set by the manager of the pari-mutuel department, and may not be changed after being posted on the odds board without permission of the stewards.

§ 163.234. Crossing and weaving.

During the running of a race, when clear, a horse may be taken to another part of the course but a horse may not cross or weave in front of other horses in such a way that would impede them or constitute or cause interference or intimidation.

§ 163.235. Jostling.

A horse or jockey may not willfully jostle another horse.

§ 163.236. Striking and touching during race.

During a race, a jockey may not willfully strike or touch another jockey or the horse or equipment of another jockey for the purpose of interfering with that horse or jockey.

§ 163.237. Changing stride.

A jockey may not unnecessarily cause his horse to shorten stride with a view to complaint. A jockey may not take his horse back without reasonable cause.

Source

The provisions of this § 163.237 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3932.

§ 163.238. Influencing outcome of race.

(a) A horse shall be ridden out in every race. A jockey may not intentionally ride wide on the turns or otherwise cause his mount to lose ground when there is no reasonable cause for the loss or otherwise ride in a manner inconsistent with using the best efforts of the horse.

(b) A jockey shall put forth every reasonable effort and exercise the greatest diligence in riding a race. If, in the opinion of the stewards, a jockey does not put forth every reasonable effort or use proper diligence in the riding of a race, the jockey shall be penalized by the stewards according to the gravity of the offense.

(c) If two horses run in one interest in a race, each shall give his best effort. The practice of declaring to win with one or the other of the horses is not allowed.

Source

The provisions of this § 163.238 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3932.

Notes of Decisions

The Commission's decision to suspend a jockey under 58 Pa. Code § 163.238(a) and (b) for failing to ride out his horse in a race is not reviewable unless constitutional rights are violated, the adjudication is not in accord with the law, procedural rules were not complied with, or the necessary findings of fact are not supported by substantial evidence. *Smith v. Horse Racing Commission*, 456 A.2d 727 (Pa. Cmwlth. 1983).

Sufficiency of Evidence

Testimony that a videotape of the race in question demonstrated that the licensee performed several acts that were intended to cause, and resulted in, the horse's last-place finish was sufficient to justify the Commission's suspension. *Pinero v. State Horse Racing Commission*, 804 A.2d 131 (Pa. Cmwlth. 2002).

§ 163.239. Foul riding complaints.

(a) The stewards shall take cognizance of foul riding and may entertain reports from other racing officials of the meeting whether or not a formal complaint is made, but a complaint may not be considered which comes from a person other than the jockey, trainer or owner of the horse interfered with.

(b) If a horse is disqualified for a foul under this chapter, any other horse in the race owned wholly or in part by the same interest may also be disqualified.

(c) An owner, trainer or jockey may not complain frivolously that his horse was interfered with.

(d) A person may not directly or indirectly interfere with the leading of horses from the stable area or to the receiving barn or to the paddock or in the parade or commit an act for the purpose or with the effect of frightening a horse; nor may a person interfere with, block or impede a racing participant who is then

performing his proper duties, nor fight, threaten to fight or strike at a racing participant who is then performing his duties, nor interfere with, block, impede or disrupt a racing operation.

§ 163.240. Entry upon race course.

A person may not enter or remain on a race course upon which a race is to be run from the time the horses enter the race course from the paddock until the race has been completed. This section does not apply to racing officials, licensees on duty which requires their presence on the course and other persons who for good cause have been granted permission by the stewards or the Commission.

Source

The provisions of this § 163.240 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3932.

CLAIMING RACES

§ 163.251. General provisions.

(a) In claiming races, horses may be claimed in the following manner by the following licensees:

(1) A new owner—that is, an individual, partnership, corporation or other authorized racing interests—who has not held an owner's license in a racing jurisdiction during the prior year is eligible to claim by obtaining an open claiming license from the Commission.

(2) To obtain an open claiming license and file an open claim, an eligible individual shall comply with the following procedures:

(i) Depositing an amount no less than the minimum claiming price, and sales tax and other applicable charges, at that meet, with the horsemen's bookkeeper. The amount shall remain on account until a claim is made. In the event of withdrawal of the fund, a license issued under §§ 163.51—163.59 will be automatically revoked and terminated.

(ii) Securing an owner or authorized racing interest license issued by the Commission. The license will be conditioned upon the making of a claim and will be revoked if no claim is made within 30 racing days after issuance, or if the deposit required under subparagraph (i) is withdrawn prior to completion of a claim.

(iii) Naming a trainer licensed by the Commission who will represent him once a claim is made.

(3) Persons or other authorized racing interests who have valid Commonwealth owners licenses and have horses stabled at an approved stabling area may claim horses at any horse race meet held in this Commonwealth by complying with the claiming rules enumerated in this section and §§ 163.252—163.264, 163.266—163.268 and 163.270. Approved Commonwealth stabling areas are: Pocono Downs Race Track, Commodore Downs Race Track, Keystone Race Track, Penn National Race Track, Garden State Race Track and any approved farm located in this Commonwealth.

- (4) Individuals, or other authorized racing interests who have a valid Commonwealth owners license and do not presently have horses stabled in an approved Commonwealth stabling area do not qualify for an open claiming license; they may claim only by starting a horse at the meet where the authorized racing interest wishes to claim.
- (b) [Reserved].
- (c) A person may not claim more than one horse in any one race.
- (d) An authorized agent, although representing several owners, may not submit more than one claim for any one race.
- (e) A person or other authorized racing interest may not claim his own horse or cause his horse to be claimed directly or indirectly for his account.
- (f) An owner whose stable has been eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated. If a 30-day period as referred to in §§ 163.254 and 163.255 (relating to starting of claimed horses; and sale and transfer of claimed horses) should extend into the next succeeding meeting, the owner shall obtain a certificate from the stewards of the meeting at which he lost his last horse and shall present the certificate to the stewards when filing a claim at the next meeting. Stables eliminated by fire or other hazards may be eligible to claim under this subsection, at the discretion of the stewards.

Source

The provisions of this § 163.251 amended through February 19, 1982, effective February 20, 1982, 12 Pa.B. 797. Immediately preceding text appears at serial pages (60174) to (60175).

§ 163.252. Transfer authorization.

When a horse is claimed, sold or transferred, the transfer authorization shall be filled out in triplicate and filed with the Commission, stewards and racing secretary. This form will be furnished by the Commission.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.253. Number of claims.

When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of the stable in any one race.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.254. Starting of claimed horses.

For a period of 30 days after the claim, a claimed horse may not start in a race in which the determining eligibility price is less than 25% more than the price at

which it was claimed. The day claimed does not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st calendar day following the claim for any claiming price. This section does not apply to starter handicaps in which the weight to be carried is assigned by the handicapper.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.255. Sale and transfer of claimed horses.

If a horse is claimed, it may not be sold or transferred to anyone wholly or in part, except in a claiming race, for a period of 30 days from date of claim, nor may it, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period, nor may it race elsewhere until after the close of the meeting at which it was claimed. The Commission has the authority to waive this section upon application and demonstration that the waiver is in the best interest of horse racing in this Commonwealth.

Source

The provisions of this § 163.255 amended February 1, 1980, effective February 2, 1980, 10 Pa.B. 470.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.256. Applicability of other rules.

If a horse is claimed at a recognized meeting under provisions which are at variance with this chapter, title to the horse shall be recognized in this Commonwealth to follow the rules of the meeting under which the claim was made, however, while racing in this Commonwealth, shall adhere to § 163.431 (relating to powers and duties of patrol judges).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.257. Posting of claiming price.

The claiming price of each horse in a claiming race shall be printed on the program, and claims for the horse shall be the amount so designated. If more than one claim is filed for the same horse, the disposition of the horse shall be determined by lot under the direction of one or more of the stewards, or their representative.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.258. Form of claims.

(a) A claim shall be made in writing on forms and in envelopes furnished by the association and approved by the Commission. Both forms and envelopes shall be filled out completely, and shall be accurate, otherwise the claim is void.

(b) Money may not accompany the claim. A person, desiring to make a claim, shall first deposit with the accountant of the horsemen the whole amount of the claim in cash including taxes, for which a receipt will be given unless at the time of depositing the claim he has the amount to his credit with the accountant of the horsemen.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.259. Starting in claiming races.

In claiming races not more than two horses in the same interest or under control of the same trainer can start.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.260. Foal certificate.

The foal certificate of a claimed horse shall remain in the custody of the racing secretary or his representative until the new owner removes the horse from the track.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.261. Filing of claims.

A claim shall be deposited in the claiming box at least 10 minutes before the time fixed for the race to begin. An official of the association may not give information as to the filing of claims therein until after the race has been run. A claim shall be passed upon by the stewards or their designated representative. When a claim has been filed it is irrevocable and at the risk of the claimant.

Source

The provisions of this § 163.261 amended July 25, 1980, effective July 26, 1980, 10 Pa.B. 3108. Immediately preceding text appears at serial page (51662).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.262. Delivery of claimed horse.

(a) A horse claimed may not be delivered by the original owner to the successful claimant until authorization is given by the stewards, and every horse claimed shall run in the interest and for the account of the owner who entered it in the race, but title to the claimed horse shall be vested in the successful claimant from the time the horse becomes a starter and the successful claimant becomes the owner of the horse, whether it is alive or dead, sound or unsound or injured during the race or after it.

(b) A trainer who claims a horse has the right to take that horse from the unsaddling area directly to the test barn, in the presence of an appropriate Commission employe, to have a post-race test sample drawn. The prior trainer or his agent shall have the right to accompany the horse. The trainer who requested the test shall pay for the test unless the test is required by this chapter. If the test result is positive, the horse may be returned immediately to the seller, at the option of the claimant; in this case, the moneys shall be returned to the claimant.

(c) A person may not refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race. The horse in question shall be disqualified until delivery is made.

Authority

The provisions of this § 163.262 issued under the Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.402).

Source

The provisions of this § 163.262 amended through June 18, 1982, effective June 19, 1982, 12 Pa.B. 1871. Immediately preceding text appears at serial page (60179).

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.263. Interference with claiming races.

A person may not offer, or enter into an agreement, to claim or not to claim, or attempt to prevent another person from claiming, a horse in a claiming race; nor may a person attempt, by intimidation, to prevent anyone from running a horse in a race for which it is entered; nor may an owner or trainer running horses in a claiming race make an agreement for the protection of each other's horses.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.264. Mortgages or liens against a horse.

The conditions of a mortgage or lien against a horse shall be approved by the stewards and filed with the horsemen's accountant before a horse is entered.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.265. [Reserved].**Source**

The provisions of this § 163.265 reserved March 20, 1981, effective March 26, 1981, 11 Pa.B. 1036. Immediately preceding text appears at serial page (51663).

§ 163.266. Cancellation of claiming race results.

If the stewards, within 24 hours after the running of a race, believe that the lease, sale or entry of a horse was not made in good faith but was made for the purpose of obtaining the privilege of entering a claim, they may disallow the claim and order the return of a horse that may have been delivered and refer the case to the Commission for further action.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.267. Responsibility for horse after claiming race.

A trainer whose horse has been claimed or whose owner has claimed a horse shall be responsible for the horse until after collection of a required saliva, urine or blood specimen.

Source

The provisions of this § 163.267 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3933.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.268. Inclusion of engagements with outcome of claiming race.

When a horse is claimed out of a claiming race, the engagements of the horses are included.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.269. [Reserved].**Source**

The provisions of this § 163.269 reserved March 20, 1981, effective March 26, 1981, 11 Pa.B. 1036. Immediately preceding text appears at serial page (51664).

§ 163.270. Who may claim.

(a) If an owner ships away only part of his horses, the stewards shall be free to decide whether or not a part was left behind merely to circumvent the claiming rule. If the stewards decide an attempt was made at circumvention of this section, the claim involved is void.

(b) Notwithstanding anything to the contrary in this chapter, only an owner or his trainer acting as his authorized agency may claim horses.

Source

The provisions of this § 163.270 amended December 21, 1973, effective December 22, 1973, 3 Pa.B. 2922.

Cross References

This section cited in 58 Pa. Code § 163.251 (relating to general provisions).

§ 163.271. Claimant of horse in dispute.

During the pendency of a review or appeal of a claim, the claimant of a horse in dispute shall be deemed entitled to enter, run or otherwise handle a horse, subject to an order of disposition decreed by the Commission upon application and approval for supersedeas under § 165.181(b) (relating to investigation and special procedures).

Source

The provisions of this § 163.271 adopted August 8, 1980, effective August 9, 1980, 10 Pa.B. 3268.

§ 163.272. Claiming by spouses.

A person may not claim from his spouse a horse owned wholly or in part by that spouse.

Source

The provisions of this § 163.272 adopted September 18, 1981, effective September 19, 1981, 11 Pa.B. 3221.

OBJECTIONS OR PROTESTS**§ 163.281. Objections or protests.**

(a) A protest, except a protest involving fraud may be filed only by the owner, or his authorized agent, trainer or jockey of a horse engaged in the race over which the protest is made or by a racing official of the meeting.

(b) A protest involving fraud may be made by any person.

(c) A protest regarding qualifications, entries, weight or other conditions of a race shall be made in writing, signed by the complainant and be filed with the stewards at least 60 minutes before the scheduled post time of the race in question. A protest not timely made may be disallowed for that reason alone.

(d) To merit considerations, a protest over the status of an alleged maiden shall be made in writing, signed by the complainant and filed with the stewards at least 2 hours before the programmed post time for the race in which the protested maiden is scheduled to run.

(e) A protest against a horse engaged in a race and timely filed under subsection (c) shall receive immediate consideration. If the protest is supported by evidence tending to show a ground for disqualification, in default of proof after verbal notice of the entrant, within 30 minutes before the scheduled post time that the horse is qualified to start, the horse may be disqualified from starting.

(f) To merit consideration, a protest against a horse based on a happening in a race shall be made to the stewards before the placing of the horses for that race has been officially confirmed.

(g) If a jockey wishes to protest a happening in a race, he shall notify the clerk of the scales immediately upon his arrival at the scales for weighing in.

(h) [Reserved].

(i) A person lodging a protest may be ordered by the stewards or the Commission to pay the costs incurred in determining the objection if the protest is found to be frivolous. If a protest is upheld, the stewards or the Commission may impose costs upon the respondent.

(j) Pending the determination of a protest, money or prizes won by a protested horse, or other money affected by the outcome of the protest, shall be paid to and held by the racing secretary until the protest is determined.

(k) The stewards are vested with power to determine the extent of disqualification in cases of fouls. They may place the offending horse behind the horses in their judgment it interfered with, or they may place it last.

(l) A protest may not be withdrawn without permission of the stewards.

(m) A person may not make frivolous protests.

(n) The stewards shall keep a record of protests and complaints, and of action taken thereon; and shall report both daily to the Commission.

(o) To merit consideration, a protest against the programmed distance of a race shall be made at least 30 minutes before post time for that race.

(p) If evidence of intentional fraud is found regarding the entry or running of a horse, or a willful violation is found in the running of a race, the Commission may, on its own motion, initiate appropriate proceedings against the individuals believed to be involved. An action may not affect pari-mutuel payoffs or the official order of finish of a race.

Source

The provisions of this § 163.281 amended September 2, 1977, effective September 3, 1977, 7 Pa.B. 2560.

Cross References

This section cited in 58 Pa. Code § 163.481 (relating to review and appeal).

SAFETY**§ 163.291. Safety.**

(a) Racing associations shall take every reasonable precaution to make their premises safe for the protection of the persons and property of patrons and licensees.

(b) A person, while exercising a horse, shall wear a safety helmet of a type approved by the stewards. A change may not be made in a helmet without the approval of the stewards. This section shall be enforced by trainers.

(c) Racing associations shall provide an ambulance with proper attendants for the protection of patrons and racing personnel during normal racing and training hours throughout the race meetings and training periods preceding the same.

(d) Racing associations shall provide a horse ambulance for attendance on horses injured on the premises and to the extent as to require this sort of facility.

Source

The provisions of this § 163.291 amended March 4, 1977, effective March 5, 1977, 7 Pa.B. 611.

ILLEGAL PRACTICES**§ 163.301. Whips.**

An electrical or mechanical or other appliance other than the ordinary whip, not in excess of 30 inches in length, may not be applied to a horse in a race or workout. A person violating this section shall be ruled off.

Cross References

This section cited in 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification).

§ 163.302. Foreign drugs, medications or substances.

(a) *Policy.* The purpose of this section and §§ 163.303—163.318 is to protect the integrity of horse racing, to guard the health of the horse and to safeguard the interests of the public and the racing participants through the prohibition or control of drugs and medications or substances foreign to the natural horse. In this context:

(1) A horse participating in a race may not carry in its body a substance foreign to the natural horse except as otherwise provided.

(2) A person acting alone or in concert may not administer or cause to be administered a substance to a horse entered to race by injection, oral administration, rectal infusion or suppository, or by inhalation within 24 hours prior to the scheduled post time for the first race, except as otherwise provided.

(3) A person other than a veterinarian may not have in his possession equipment for hypodermic injection of a substance for hypodermic administration.

tion. A person other than a veterinarian may not have a foreign substance, within the area of the race track complex, which can be administered internally to a horse by a route, except for an existing condition and as prescribed by a veterinarian. The supply of the prescribed foreign substance, by a veterinarian, shall be limited by ethical practice consistent with the purposes of this paragraph.

(4) A foreign substance may not be found in a test sample of a 2-year-old.

(5) Notwithstanding paragraph (3), a person may have in his possession within a race track complex a chemical substance for use on his own person. If the chemical substance is prohibited from being dispensed by Federal or State law without a prescription, he shall possess documentary evidence that a valid prescription for the chemical substance has been issued to him.

(b) *Definitions.* The following words and terms, when used in this section and §§ 163.303—163.318, have the following meanings, unless the context clearly indicates otherwise:

Bleeder—A horse which hemorrhages from the respiratory tract during a race or within 1 hour post race, or during exercise or within 1 hour of the exercise.

Bleeder list—A tabulation of bleeders to be maintained by the Commission.

Chemist—An official racing chemist designated by the Commission.

Foreign substances—Substances except those which exist naturally in the untreated horse at normal physiological concentration.

Furosemide—4-chloro-N-(2-furylmethyl)-5-sulfamoylanthranilic acid.

Horse—Horses registered for racing under the jurisdiction of the Commission or Board, and for the purposes of this section and §§ 163.303—163.318 mean stallion, colt, gelding, ridgling, filly or mare.

Hypodermic injection—An injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, intraocular (intraconjunctival) injection.

Race day—The 24-hour period prior to the scheduled post time for the first race.

Security area—The area surrounding the security stall delineated by the Commission and controlled by it.

Security stall—The stall assigned by the Commission to a horse on the bleeder list, for occupancy as a prerequisite for receiving bleeder medication, sometimes called the detention stall.

Test level—The concentration of a foreign substance found in the test sample.

Test sample—A body substance including but not limited to blood or urine taken from a horse under the supervision of the Commission veterinarian and in a manner prescribed by the Commission for the purpose of analysis.

Veterinarian—A veterinary practitioner authorized to practice on the race track.

Source

The provisions of this § 163.302 amended July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial page (51667).

Notes of Decisions

In holding that the Commission correctly refused to disqualify from the purse, a horse which showed a prohibited level of phenylbutazone, the Court noted that the present drug regulations are contained in 58 Pa. Codes §§ 163.302—163.312. *Meyer v. Horse Racing Commission*, 456 A.2d 1164 (Pa. Cmwlth. 1983).

The discovery of lidocaine in a horse's urine following a race was sufficient to support the imposition of liability upon a trainer under this section and 58 Pa. Code § 163.303. *Sipp v. Horse Racing Commission*, 466 A.2d 296 (Pa. Cmwlth. 1983).

Possession of prohibited drug paraphernalia by a horse trainer was a violation of 58 Pa. Code § 163.302(a)(3) even though there was no evidence that the paraphernalia contained any trace of a prohibited drug. *Paoli v. Horse Racing Commission*, 473 A.2d 243 (Pa. Cmwlth. 1984).

Notwithstanding the fact that a urine sample test disclosed the presence of a prohibited drug, the court held that 58 Pa. Code § 163.302(a)(1) was not violated because there was no evidence verifying the chain of possession from the sample procured to the horse in question. *Paoli v. Horse Racing Commission*, 473 A.2d 243 (Pa. Cmwlth. 1984).

A horse is prohibited from participating in a race if it is carrying in its body a foreign substance with certain exceptions. *Worthington v. Horse Racing Commission*, 514 A.2d 311 (Pa. Cmwlth. 1986).

It was a violation of this section for a horse trainer to negligently allow a horse to ingest caffeine from discarded coffee and cola drinks in the barn; the trainer has a positive duty to protect his horses from the administration of a foreign substance. *Yanofsky v. Horse Racing Commission*, 537 A.2d 92 (Pa. Cmwlth. 1988).

Cross References

This section cited in 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.303. Prohibition; prima facie evidence; disqualification.

(a) A horse participating in a race may not carry in its body a substance except as provided in § 163.304 (relating to substances of therapeutic value).

(b) A finding by the chemist that a foreign substance is present in the test sample shall be prima facie evidence that the foreign substance was administered and carried in the body of the horse while participating in a race. This finding shall also be taken as prima facie evidence that the trainer and his agents responsible for the care or custody of the horse has been negligent in the handling or care of the horse.

(c) A finding by the chemist of a foreign substance or an approved substance used in violation of this section and §§ 163.301, 163.302 and 163.304—163.308 in a test sample of a horse participating in a race may result in the horse being

disqualified from purse money or other awards except for purposes of parimutuel wagering, which shall be in no way affected.

Source

The provisions of this § 163.303 amended through April 24, 1981, effective April 25, 1981, 11 Pa.B. 1391. Immediately preceding text appears at serial page (56247).

Notes of Decisions

The finding of a foreign substance in a test sample from a horse is prima facie evidence that the trainer and his agents responsible for the care or custody of the horse may have been negligent in the handling or care of the horse. *Worthington v. Horse Racing Commission*, 514 A.2d 311 (Pa. Cmwlth. 1986).

Since horse was left unattended for two to three daylight hours daily, the fact that horse trainer hired night watchman was insufficient to rebut presumption of negligence created under 58 Pa. Code § 163.303(b) when a prohibited foreign substance was found in a test sample. *Brown v. Horse Racing Commission*, 499 A.2d 1132 (Pa. Cmwlth. 1985).

The discovery of lidocaine in a horse's urine following a race was sufficient to support the imposition of liability upon a trainer under this section and 58 Pa. Code § 163.302. *Sipp v. Horse Racing Commission*, 466 A.2d 296 (Pa. Cmwlth. 1983).

Subsection (c), as it read on March 13, 1981, the date of the race, required a horse which had an impermissible level, as set out in 58 Pa. Code § 163.304(2), of the drug phenylbutazone in its system "shall" be disqualified from purse money, and the Commission's reversal of such a disqualification was clear error even though the section later was changed to "may" be disqualified from purse money. *Bush v. Horse Racing Commission*, 466 A.2d 254 (Pa. Cmwlth. 1983).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.304. Substances of therapeutic value.

A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when test levels and guidelines for its use have been established by the Veterinary-Chemist Advisory Committee of the National Association of State Racing Commissioners and approved by the Commission.

- (1) Only one approved nonsteroidal anti-inflammatory drug (NSAID) may be present in the body of a horse while it is participating in a race. The presence of more than one NSAID at any test level is forbidden.
- (2) The test level of phenylbutazone under this section may not be in excess of two micrograms (mcg) per milliliter (ml) of plasma.
- (3) The test level of oxyphenbutazone under this section may not be in excess of two micrograms (mcg) per milliliter (ml) of plasma.
- (4) The administration of furosemide shall be permitted for the prophylactic treatment of a confirmed bleeder under the conditions and guidelines set forth in § 163.305 (relating to bleeder list), and with the approval of the Commission veterinarian.

Source

The provisions of this § 163.304 amended July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial pages (51667) to (51668).

Notes of Decisions

Paragraph (2), as it read on March 13, 1981, required a horse which had an impermissible level, as set out in 58 Pa. Code § 163.303, of the drug phenylbutazone in its system to be disqualified from purse money was mandatory and the Commission's reversal of such a disqualification was clear error. *Bush v. Horse Racing Commission*, 466 A.2d 254 (Pa. Cmwlth. 1983).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.305. Bleeder list.

(a) In order to obtain approval for the administration of furosemide, the bleeder horse shall be placed on the bleeder list.

(b) Only the following horses shall be placed on the bleeder list:

(1) A horse, which during the race or within the first hour immediately following a race, is observed by the Commission veterinarian to be shedding blood from one or both nostrils or is found to have bled internally. The Commission veterinarian may require an endoscopic examination of the horse in order to confirm inclusion on the bleeder list.

(2) A horse which bled during exercise on the race track or within the first hour following the exercise is subject to the same conditions as in paragraph (1).

(3) A horse may be placed on the bleeder list when the Commission veterinarian, prior to the implementation of this subsection, determined that the horse qualified for bleeder medication in accordance with paragraphs (1) and (2).

(c) The endoscopic examination provided for in subsection (b)(1) shall be conducted by a veterinarian licensed by the Commission and employed by the owner or his agent, and shall be conducted in the presence of and in consultation with the Commission veterinarian. The endoscopic examination shall be conducted within 1 hour of the finish of the race or exercise in which the horse has participated and bled, and must reveal hemorrhage in the lumen of the respiratory tract. Endoscopic examination under this subsection shall be at a time and place set by the Commission veterinarian and shall be conducted in his presence.

(d) The confirmation of a bleeder horse shall be certified in writing by the Commission veterinarian and entered by him on the bleeder list. A copy of the certification shall be issued to the owner of the horse or his agent upon request.

(e) Two-year-olds shall be ineligible for bleeder medication.

(f) A confirmed bleeder regardless of age shall be placed on the bleeder list. An up-to-date bleeder list shall be maintained and posted in the office of the secretary by the Commission.

(g) A horse shall be removed from the bleeder list only upon the direction of the Commission veterinarian, who shall certify in writing to the Commission or Commission steward his recommendation for removal.

(h) Once a horse is placed on the bleeder list it shall be presented to the pre-race security stall between 4 1/2 and 5 1/2 hours prior to the post time of the race in which the horse is scheduled to start. Once placed in the security area, a horse shall remain in there until it is taken to the paddock to be saddled for the race. The bleeder medication shall be administered no less than 4 hours prior to post time of the race in which the horse is scheduled to run.

(i) Immediately prior to treatment, a blood sample shall be taken by the Commission veterinarian and delivered to the testing laboratory using the standard procedure for collection, identification and transmittal as is used in routine testing.

(j) Bleeder medication shall be administered by a veterinarian licensed by the Commission and employed by the owner of the horse or by his agent and at a dose level not to exceed that recommended by the manufacturer and approved by the Commission veterinarian. The administration of bleeder medication shall be witnessed by the Commission veterinarian or an inspector assigned by him.

(k) While in the security area, the horse shall be in the care, custody and control of the trainer or a licensed person assigned by him. The trainer shall be responsible for the condition, care and handling of the horse while it remains in the security area.

(l) A bleeder horse shipped into this Commonwealth from another jurisdiction shall comply with the procedure outlined in this section. However, a bleeder horse shipped into this Commonwealth from another jurisdiction may be automatically placed on the bleeder list if the jurisdiction from which it was shipped qualified it as a bleeder using criteria which the Commission determines substantially complies with this section. A current certificate setting forth his qualifications as a bleeder shall be transmitted to the steward at the track in this Commonwealth to which it is shipped, prior to running in a race.

(m) If a horse bleeds during or following a race after being administered bleeder medication, the horse will be placed on the veterinarian's list and will not be permitted to race until the horse is observed during a workout by a State veterinarian. If the horse does not bleed during or following the workout, the State veterinarian may remove the horse from the veterinarian's list.

Source

The provisions of this § 163.305 amended July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial page (51668).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification); 58 Pa. Code § 163.304 (relating to substances of therapeutic value); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.306. Racing soundness examination.

(a) A horse entered to race shall be available for a veterinary examination for racing soundness and health on race day. Horses entered to start in races one through five are required to be present 1 1/2 hours prior to the published post time of the first race. Horses entered to start in races six through the last race are required to be present 1 1/2 hours prior to the published post time of the fifth race.

(b) Commission stewards are granted the discretion to waive the time limits outlined in subsection (a) in proper and exceptional circumstances. They may not waive the prerace soundness examination, which will be conducted on all horses.

(c) The examination shall be referred to as the racing soundness exam.

(d) The examinations shall be conducted in or near the stall to which the animal is assigned and shall be conducted by a veterinarian employed by the Commission or approved by it.

(e) The veterinarian shall cause to be kept a continuing health and racing soundness record of each horse so examined.

(f) A horse which suffers a breakdown on the race track, in training or in competition, and is destroyed, and every other horse which expires while stabled on the race track under the jurisdiction of the Commission, shall undergo an examination at a time and place acceptable to the Commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death.

(g) The examination required under this section will be conducted by a veterinarian employed by the owner or his trainer in the presence of and in consultation with the Commission veterinarian.

(h) Test samples shall be obtained from the carcass upon which the examination is conducted and shall be sent to a laboratory approved by the Commission for testing for foreign substances and natural substances at abnormal levels. When practical, samples should be procured prior to euthanasia.

(i) The owner of the deceased horse shall make payment of charges due the veterinarian employed by him to conduct the examination. The services of the Commission veterinarian and the laboratory testing of samples shall be made available by the Commission without charge to the owner.

(j) A record of an examination shall be filed with the Commission by the owner's veterinarian within 72 hours of the death and shall be submitted on a form supplied by the Commission.

(k) Each owner and trainer shall accept the responsibility for the examination provided for in this section as a requisite for maintaining the occupational license issued by the Commission.

Source

The provisions of this § 163.306 amended through November 7, 1980, effective November 8, 1980, 10 Pa.B. 4298. Immediately preceding text appears at serial page (51668).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.307. Examination by veterinarian.

(a) An owner or his authorized agent or trainer of a horse entered to race on a race track licensed by the Commission shall immediately when requested by the Commission or its agents, submit a horse, of which he is the owner or authorized agent or trainer to a veterinary surgeon designated by the Commission for the examination or tests as the veterinarian may deem advisable to make.

(b) During the taking of the sample by the veterinarian representing the Commission or his delegate, in a detention area designated by the Commission, the owner, trainer, authorized agent or chemist representing them may be present and witness the procedure. In no event may a person be present in the area during a testing procedure who does not hold a valid current occupational license from the Commission. The sample shall be immediately sealed and the evidence of the sealing may be indicated thereon by the signature of the representative of the owner or trainer. The owner or trainer or chemist representing them shall have the right to attend and witness the examination and testing.

Source

The provisions of this § 163.307 amended through July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial page (51669).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.308. Official laboratory.

(a) The Commission will have authority to direct the official laboratory to retain and preserve by freezing samples for future analysis.

(b) The fact that purse money has been distributed prior to the issuance of a laboratory report may not be considered a finding that no chemical substance has been administered, in violation of this section and §§ 163.302—163.307 and 163.309—163.318, to the horse earning the purse money.

(c) The Commission will bear the costs of necessary testing equipment exclusive of testing equipment located at the designated horse racing laboratory. The Commission will also bear the costs of personnel, supplies and testing necessary for the implementation, operation and enforcement of the drug control program.

(d) The racing associations shall bear the cost of a facilities, including but not limited to designated detention areas, necessary for the implementation, operation and enforcement of the drug control program.

Source

The provisions of this § 163.308 amended through July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial page (51669).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.303 (relating to prohibition; prima facie evidence; disqualification).

§ 163.309. Responsibilities to guard against administration of drugs.

The owner, trainer, groom or other person who is charged with the responsibility of the horse shall protect the horse against the administration or attempted administration, either internally or externally, of a drug to the horse. If the stewards determine that an owner, trainer, groom or other person has failed to protect the horse they may immediately suspend the trainer, groom or other person and refer the matter to the Commission for final disposition.

Notes of Decisions

Since horse was left unattended for 2 or 3 daylight hours daily, the fact that horse trainer hired night watchman was insufficient to rebut presumption of negligence created under 58 Pa. Code § 163.303(b) when a prohibited foreign substance was found in a test sample *Brown v. Horse Racing Commission*, 499 A.2d 1132 (Pa. Cmwlth. 1985).

Horse trainers are specifically charged with the obligation to guard against the administration of any drug to his horse. *Worthington v. Horse Racing Commission*, 514 A.2d 311, 312 (Pa. Commw. 1986).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.310. Persons found guilty of administration of drugs.

A person found guilty by the Commission of participation in or knowledge of the fact that a narcotic, stimulant or drug has been administered to a horse shall be ruled off of all tracks in this Commonwealth. If a person licensed by the Commission to operate a race track, or if an officer or director of an association or corporation licensed by the Commission to operate a race track is found guilty by the Commission of participation in or knowledge of the fact that a narcotic,

stimulant or drug has been administered to a horse, the license of the person or association shall be revoked.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.311. Suspension of horses.

Horses suspended under this section, in which the person suspended or ruled off holds an interest, aside from the trainer's percentage, in order to be eligible for reinstatement shall be sold, the sale subject to the approval of the stewards at the track where the horses are to be entered to race. Horses trained by a suspended person, in which he has no interest, are automatically reinstated when placed in the hands of a licensed trainer and the transfer is approved by the stewards of a meeting and the Commission.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.312. Possession of illegal drug devices.

The stewards or the Commission, or both, or their designees, shall have the right to enter buildings, stables, rooms or other places within the grounds of an association, and to examine them and to inspect and examine the personal property and effects of a person, within these places. A person granted a license by the Commission, by accepting his license, consents to the search and seizures of hypodermic syringes, hypodermic needles or other devices, and drugs, stimulants or narcotics which could be, used in connection therewith, or appliances—electrical, mechanical or otherwise—other than the ordinary equipment, of the nature as could affect the speed or racing condition of a horse.

Source

The provisions of this § 163.312 amended through July 3, 1980, effective July 26, 1980, 10 Pa.B. 2883. Immediately preceding text appears at serial page (51670).

Notes of Decisions

A jockey who obtains a license from the commission consents to a warrantless search and seizure of drugs and drug paraphernalia whether or not the drugs might be used to affect the speed or racing condition of the horse. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659 (Pa. Cmwlth. 1988).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.313. Urine samples.

A urine sample of the winner of each race and of a horse running an unusual or abnormal race and of any other horse as the stewards or the Commission may direct shall be taken. In the event of difficulty in taking or securing a sample:

(1) A veterinarian may inject an amount up to and including 2 cc. of an approved diuretic for the purpose of enhancing the securing of a sample upon securing written consent from the trainer.

(2) If a urine sample cannot be obtained within 2 hours after a horse has been received at the detention barn, a blood sample shall be secured by a veterinarian.

(3) The veterinarian in charge of the detention barn may, in his sole discretion, take a blood sample in lieu of a urine sample at any time if he believes it physiologically to be for the best interest of the horse.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.314. Horses with desensitized nerves.

A horse that has been nerved, blocked with alcohol or other medical drug that desensitizes the nerves above the ankle is not be permitted to race.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.315. Test reports.

Urine or blood test reports prepared by the official chemist of the Commission shall be deemed prima facie correct and all steps undertaken in the collection, preservation, handling and testing thereof shall be presumed correct in the absence of affirmative proof to the contrary.

Source

The provisions of this § 163.315 amended March 4, 1977, effective March 5, 1977, 7 Pa.B. 611.

Notes of Decisions

The purpose of the presumption in this section, which places an affirmative burden of proof on the alleged violator and deeming urine or blood test reports prepared by official chemists of the Commission to be prima facie correct is to simplify the Commission's burden by eliminating the necessity for the attendance at the hearing of every person involved in the procurement and actual testing of the samples. *Worthington v. Horse Racing Commission*, 514 A.2d 311 (Pa. Cmwlth. 1986).

Blood and urine tests are accorded prima facie correctness to eliminate the necessity for the attendance at the hearing of every person involved in the procurement and testing of the sample. *Wise v. Horse Racing Commission*, 514 A.2d 308 (Pa. Cmwlth. 1986).

The petitioner did not meet his burden of proof in showing that straws, containing cocaine, were not sealed in a plastic bag after seizure and, therefore, supporting his argument that the chain of custody was broken as the steps taken in collecting, preserving and handling a specimen tested by the Commission's official chemist are deemed proper unless affirmative proof to the contrary is shown. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659 (Pa. Cmwlth. 1988).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.316. Repeated offenses by owners and trainers.

An owner or trainer who once having been suspended for a violation of this chapter, or of the same or similar rule in another racing jurisdiction, and who is thereafter found guilty of a further violation by this Commission, or another racing commission or turf governing body shall be considered guilty of a second offense, and the owner or trainer or both shall be ruled off the tracks in this Commonwealth.

Source

The provisions of this § 163.316 adopted July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.317. Mistreatment of horses.

A licensee or other person under the jurisdiction of the Commission may not alone or in concert with another person permit an animal under his control to be subjected to a form of cruelty, mistreatment, neglect or abuse or abandon, or to injure, maim or kill or administer a noxious or harmful substance to or deprive an animal of necessary care, sustenance, shelter or veterinary care.

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

§ 163.318. Split samples.

(a) The test sample of the winner of each race and of horses finishing in the money in a race for which there is exotic wagering shall be taken, and a test sample shall be taken from other horses as the Commission or stewards may direct. If there is a problem in securing a test sample, the following procedures apply:

- (1) A veterinarian may inject up to 1/2 cc. of Lasix to enhance securing a sample upon the written approval of the trainer.

- (2) If a urine sample is not obtained in 2 hours and either the trainer or the veterinarian elects not to induce the sample by Lasix, a blood sample shall be taken upon the written approval of the trainer.
- (3) In all cases a urine sample, a urine sample induced by Lasix or a blood sample shall be secured, regardless of delay involved.
- (b) The urine or blood sample secured under the procedures as set forth in subsection (a), shall be split into two parts. One portion shall be delivered to the Commission's official chemist for testing. The remaining portion shall be maintained at the detention barn from where it was secured. Both portions shall be stored and shipped at the same range of temperatures and kept and transported in similar fashion.
- (1) Urine will not be split if less than 50 cc. are obtained. In these instances, either a blood sample shall be taken or the horse detained until an adequate urine sample can be secured. In every event, "primary" and "split" portions of a sample shall always be taken at the same time and shall be of the same substance.
- (2) Blood samples shall initially be taken in a quantity to insure that ample portions shall be obtained.
- (c) Upon application by the trainer or owner of the horse in question, the split portion of the sample taken shall be tested by a laboratory designated by the Commission and approved by the Horsemen's Benevolent and Protective Association.
- (d) If the test confirms the findings of the original laboratory, it is considered to be a prima facie violation of the applicable provisions of this chapter.
- (1) If the test of the split portion does not substantially confirm the findings of the original laboratory, the Commission will not consider the sample to constitute a prima facie violation of this chapter and no penalty will be imposed.
- (2) In order that the split sample be tested, the owners or trainers of the horse in question shall request in writing to the Commission that the split sample be retested. The request shall be received by the Commission within 48 hours after notification of the initial positive test or within a reasonable period of time established by the Commission after consultation with the original laboratory. The reasonable time is to be calculated to insure the integrity of the sample and the preservation of the alleged illegal substance. If the findings of the split sample laboratory substantially confirm the findings of the original laboratory, the owners or trainers requesting the testing of the split sample shall be responsible for the payment of expenses involved in the testing of the split sample. If the findings of the split sample laboratory do not substantially confirm the findings of the original laboratory, the Commission will assume testing costs of the split sample.
- (3) If the Commission is unable to secure the services of a laboratory to test the split portion of a sample, the Commission will have the option of hav-

ing the split sample retested at the laboratory which tested the original sample. The owner and trainer affected will be notified by the Commission. If the owner or trainer does not wish to have the split sample retested at the laboratory conducting the original test, the individual may, within 24 hours, attempt to secure the services of a laboratory acceptable to the Commission to conduct the split sample retesting.

(4) If the Commission, within 24 hours, is unable to contact the trainer or owner affected by calling him at the telephone number on his latest license application or track location at the track where the sample was taken, the Commission will have the retesting undertaken by the laboratory which tested the original sample.

(e) If an Act of God, power failure, accident, strike or other action prevents a retest from being made which is beyond the control of the Commission, the results of the primary official test shall be accepted as prima facie evidence.

(f) During the pendency of a proceeding involving a claim that a horse has run with proscribed medication, the stewards shall see that notice of the proceeding is posted in the office of the Secretary at tracks in this Commonwealth where the horse may run or be offered for sale. The obligation shall continue until the horse is sold or transferred or until a final determination of the medication violation is handed down which is not appealed, whichever occurs first.

Source

The provisions of this § 163.318 amended through January 22, 1982, effective January 23, 1982, 12 Pa.B. 394. Immediately preceding text appears at serial pages (56257) and (60185).

Notes of Decisions

Loss of the Split Sample

The State Horse Racing Commission was entitled to consider the findings of the primary sample to constitute prima facie evidence of a violation sufficient to impose a fine or permanently revoke the race horse trainer's license even though there was no confirming test results from the split sample, where the split sample was stolen while in the custody and control of the commission's agent, Airborne Express, and the theft, barring active participation, was an act that was outside the control of the Commission. *Monaci v. State Horse Racing Commission*, 717 A.2d 612 (Pa. Cmwlth. 1998).

The action of throwing away and thus destroying a split sample by employes of the Commission after the samples had been covered with soot by a fire was tantamount to a denial of administrative due process. *Delaney v. State Horse Racing Commission*, 535 A.2d 719 (Pa. Cmwlth. 1988).

Prima Facie Violation

Verification of a positive horse blood or urine sample by an independent laboratory shall establish a prima facie violation of these regulations. *Worthington v. Horse Racing Commission*, 514 A.2d 311 (Pa. Cmwlth. 1986).

Split Samples

Test samples of blood or urine must be obtained from every horse winning a race, and from all horses finishing "in the money" in a race for which there is exotic wagering. The samples shall be split in two parts, one of which is to be delivered to the Commission's official chemist for testing, with the remaining portion of the sample held at the detention barn for independent testing if required. *Worthington v. Horse Racing Commission*, 514 A.2d 311 (Pa. Cmwlth. 1986).

Cross References

This section cited in 58 Pa. Code § 163.302 (relating to foreign drugs, medications or substances); and 58 Pa. Code § 163.308 (relating to official laboratory).

RACING OFFICIALS—THE STEWARDS**§ 163.331. Race meetings.**

At race meetings licensed by the Commission, racing officials shall be subject to approval by the Commission at all times during the meetings. The officials shall enforce this chapter and shall render regular written reports of the activities and conduct of the race meetings to the Commission.

§ 163.332. Definition.

The term “racing official” as used in this chapter at a race meeting shall include: three stewards, the prescribed number of placing judges and patrol judges, the clerk of scales, a horse identifier, a starter, a paddock judge, a racing secretary, an assistant racing secretary, the handicapper, a timer, Commission veterinarians, the prescribed number of track veterinarians, a mutuel manager and a chief of security.

Cross References

This section cited in 58 Pa. Code § 163.333 (relating to appointment of officials).

§ 163.333. Appointment of officials.

One of the stewards and two veterinarians shall be appointed by the Commission and shall represent the Commission. The steward so appointed shall serve as the chief steward at each race meeting. Other racing officials listed in § 163.332 (relating to definition) shall be appointed by the association, subject to the approval of the Commission. Each association shall submit a complete list of the other proposed officials for approval not less than 30 days prior to the start of a race meeting. Approval of officials is within the sole discretion of the Commission. The approval shall be a continuing privilege and may be modified or withdrawn by the Commission. It may create no vested rights.

§ 163.334. Conflict of interest.

A racing official may not participate in the supervision, regulation or review of a race in which either he and a member of his family, or a business partner, agent, associate, employe or joint or co-venturer has participated or in which any of them has had an interest in the event there is an objection, protest, claim of foul or dispute raised with regard to the race.

§ 163.335. Wagering forbidden.

A racing official may not wager or have a form of interest in a wager of money or other value on the result of a race at the meeting.

§ 163.336. Gratuities, rewards, favors and interests.

(a) A person may not offer to and no racing official may accept, directly or indirectly, a gratuity, reward or favor in connection with racing at the meeting.

(b) A racing official may not, directly or indirectly, for a commission, gratuity or otherwise, sell, buy or hold for himself or for another a form of interest in a thoroughbred horse that is run or entered at a meeting where he is officiating.

(c) A racing official may not, directly or indirectly, buy, sell or hold an interest in a contract upon a jockey or apprentice jockey.

(d) A racing official may not write or solicit horse insurance at the meeting.

§ 163.337. Reporting of violations.

A racing official shall forthwith report to the stewards possible evidence of violations of this chapter.

§ 163.338. Application for position of steward.

Before a person may be approved as a steward, the person shall have had the following experience:

(1) Five years experience as a licensee of an authorized racing commission of the United States or Canada.

(2) The applicant shall have served as one of the following:

(i) A licensed racing official or participant at recognized thoroughbred race meetings in the United States or Canada for no less than a total of 300 days of service in one or more of the following categories: patrol judge, placing judge, paddock judge, clerk of scales, horse identifier, racing secretary or assistant racing secretary and starter.

(ii) A licensed, practicing trainer or jockey for a period of not less than 5 years.

(3) In addition to the service, each applicant shall be required to take and pass both a written and oral examination, which shall be prepared and administered by the Commission following consultation with designated representatives of the Pennsylvania H.B.P.A., the Jockeys' Guild, Pennsylvania Horse Breeders' Association, Commission veterinarians and representatives of the management of licensed thoroughbred racing associations in this Commonwealth. Representatives of each consulting body shall be granted the opportunity to be present during the oral examination and the representatives shall have the right to question an applicant before the Commission. The scoring and judging of the tests and examinations are vested solely within the power of the Commission.

(4) There shall be an advisory screening panel constituted at the call of the Commission which has the right to review and recommend candidates for the vacancies in the office of State steward as the vacancies exist. The advisory panel shall consist of representatives of the Pennsylvania H.B.P.A., the Jock-

eys' Guild, the Pennsylvania Horse Breeders' Association, Commission veterinarians, representatives of the management of licensed thoroughbred racing associations in this Commonwealth, and the Executive Secretary of the Commission and the other Commission personnel as the Commission designates.

(5) A person who is licensed and served as an approved steward in this Commonwealth during 1978 is deemed by virtue of the service to be fully qualified and to be exempt from paragraphs (2) and (3). A steward who has completed a similar period of service in that office at licensed race meetings in other states shall be exempt from the requirement of taking the written examination, except insofar as it pertains to this chapter. An applicant is, however, required to come before the Commission for an oral examination, as provided in this section.

Authority

The provisions of this § 163.338 issued under the Race Horse Industry Reform Act (4 P. S. §§ 325.101—325.402).

Source

The provisions of this § 163.338 amended March 4, 1983, effective March 5, 1983, 13 Pa.B. 888. Immediately preceding text appears at serial page (51676).

§ 163.339. Optical examination required.

Before being approved by the Commission, stewards, placing judges, patrol judges, timers, starters and clerks of the scales shall be examined by a certified optometrist or ophthalmologist and secure a certificate that they have passed the optical examinations as the Commission may require. The examination may be made a precondition of service as an official in the discretion of the Commission.

§ 163.340. Power of stewards.

(a) In matters pertaining to racing, the orders of the stewards shall supersede the orders of the officers and directors of the association. The stewards shall have the power and duty to regulate and supervise the conduct of racing officials and of owners, trainers, jockeys, grooms and other persons attendant on horses during, before and after races, unless the power and the duty is exclusively vested in the Commission.

(b) The authority of each board of stewards shall extend from 12:01 a.m. of the day upon which entries commence to be taken for a meeting at which they are approved to sit and shall continue until midnight of the third day following the last racing day of each meet. If a dispute is unresolved at the time, it may be heard later or disposed of by the stewards or referred to the Commission. This section does not limit the power of a board to impose sanctions continuing beyond the end of a meeting or to decide a matter occurring and heard before the end of the third day following the end of the meeting. In addition to other reports required of them, the stewards shall immediately at the end of the third day fol-

lowing the end of a meeting specifically report to the Commission the matters still pending before them that have not been finally resolved. The requirement may not apply where there is a succeeding meeting approved to commence at the same track within no less than 30 days. In the latter event, the power of the board of stewards at both meetings, is deemed to be continuing and sustaining.

(c) In the performance of duty, the stewards shall have reasonable control over and unrestricted access to stands, weighing rooms and jockey rooms, stables, barns and other areas of the enclosure.

(d) The stewards shall have the power to determine questions arising with reference to entries and racing.

(e) The stewards shall have the power to punish a person for violation of this chapter subject to their control and to impose fines or suspensions or both for infractions whether arising from complaint, protest, independent investigation, reference or request by the Commission or their own initiative. The stewards may not impose a fine in excess of \$250. If it is deemed appropriate that a larger fine should be imposed, the stewards shall recommend to the Commission and shall refer the matter at hand to the Commission. The stewards shall have the power to refer a matter before them to the Commission if it appears proper because of the complexity, severity, uniqueness or extent of the activities likely to be involved. Included within these powers is the authority to impose partial sanctions, such as conditional limitations on a persons usage of facilities or of the enclosure.

(f) The stewards may suspend a person or disqualify a horse for fixed periods of time or under other conditions they may deem appropriate or as may be specified by this chapter. If a person is indefinitely suspended or is ordered suspended for more than the balance of a meeting, the matters shall promptly be referred to the Commission for final disposition.

(g) The stewards shall have the power to exclude or eject from premises and enclosures of the association a person who:

(1) Is disqualified for corrupt practice on the turf in any country.

(2) Is under an order of suspension or revocation or has been denied a license or ruled off by a racing commission or board of stewards.

(3) Is an improper or objectionable person, under section 12.1 of the act of December 11, 1967 (P. L. 707, No. 331) (15 P. S. § 2662.1(a)) (Repealed).

(h) The stewards may postpone a race from race day to race day.

(i) The stewards shall have the power to cause to be examined a horse stabled on the association grounds, or in a stabling area approved by the association.

§ 163.341. Duties of stewards.

(a) The three stewards shall be on duty during race time, which means from 1 hour before post time for the first race of the day until the time the result of the last race of the day has been made official.

(b) At least one of the stewards, or his deputy, shall be on duty within call of the racing secretary from the time of the opening of overnight entries each morning until after the time allowed for filing of protests or objections to entries or assignment of post positions.

(c) A steward may appoint his own deputy for a period not to exceed 1 racing day.

(d) If there are less than three stewards present at race time, the State steward, or in his absence, a remaining steward shall appoint another qualified person to act as steward pro tem.

(e) The three stewards shall be present and on duty in the stand whenever a race is being run. During race times, they shall remain at the stand, in the paddock or otherwise readily available to the participants at the meet.

(f) When a vacancy occurs among the racing officials, other than the stewards, prior to post time of the first race of the day, or when a vacancy occurs after the racing of the day has started, the stewards have the power to immediately fill the vacancy. An appointment shall be effective only for the day. If the association fails to fill the vacancy before the following day or fails to secure Commission approval for the appointment, the stewards may reappoint the official from day-to-day pending action.

(g) The appointment shall be reported immediately to the Commission.

(h) The stewards shall take notice of questionable conduct with or without complaint thereof and may undertake proceedings upon their own initiative.

(i) In default of designation by the trainer, the stewards may substitute a jockey of their selection on a horse if they deem it appropriate.

(j) The stewards may place a horse in the temporary charge of a trainer of their selection if they deem it appropriate.

(k) It is the duty of the stewards to see to it that horses arrive at the starting post as nearly as practical at the advertised post time. A person responsible for delay in arrival of a horse will be subject to fine or penalties.

(l) In case of accident, casualty or a sudden impairment that would reasonably be likely to impair the ability of a horse to perform occurring prior to off time, the stewards may excuse the horse. A detailed written record of each excusing shall be indicated on the daily report.

Cross References

This section cited in 58 Pa. Code § 165.14 (relating to number of racing days).

§ 163.342. Report and investigation of protests and complaints.

(a) A horse whose starting is obligatory is expected to run the course. The stewards may order the withdrawal of a horse up to the actual start of a race to protect the public interest.

(b) The stewards shall investigate promptly and render a decision in every protest and complaint properly made to them.

(c) The stewards shall report protests and complaints to the Commission promptly, and shall make prompt report to the Commission of their decision. Unusual or substantial complaints shall be reported to the Commission during their pendency. A record of the status of complaints, protests, proceedings and investigations shall be maintained with the Commission.

(d) The stewards shall, after the closing of each day, file with the Commission a signed report of infractions of this chapter coming under their observance that day, of excusings of horses after scratch time, of other pertinent incidents occurring during the day and shall file with the Commission a complete copy of the rulings and decisions made.

(e) During the term of suspension of a jockey, owner, trainer or other person on a race track under the jurisdiction of the Commission, the stewards shall have the power and duty to see that the validation of the offender is taken up and that he is refused admission to the course during the full term of suspension. A person under suspension for an offense not involving fraud, moral turpitude or willfull misconduct may be permitted the privileges or limited or conditional privileges of the grounds during a period of suspension.

(f) Except in emergencies, a steward may not grant permission for a change of horses' equipment after scratch time on the day of the race in which the changed equipment is to be carried.

(g) In case of accident or casualty to a horse before off time, the stewards may excuse the horse.

(h) The stewards shall report protests and complaints to the Commission promptly, and shall make prompt report to the Commission of their decision.

(i) The stewards shall, after the closing of each day, file with the Commission a signed report of infractions of the rules coming under their observance that day; and file with the Commission rulings on infractions or otherwise, as soon as the rulings are made.

(j) During the term of suspension of a jockey, owner, trainer or other person on a race track under the jurisdiction of the Commission, it shall be the duty of the stewards to see to it that the badge of the offender is taken up and that he is refused admission to the course. A person under suspension for an offense not involving fraud or moral turpitude may be permitted the privileges of the grounds during the period of his suspension.

(k) In case of suspension or fine by the stewards of owners, trainers or other persons holding an occupational or participational license, a final order may be entered by the Commission, which may either sustain the ruling of the stewards, increase the penalty, reinstate the offender, or otherwise modify the penalty, as it believes appropriate to the circumstances.

Source

The provisions of this § 163.342 amended through April 11, 1979, effective April 14, 1979, 9 Pa.B. 1306.

Notes of Decisions

The provisions of 58 Pa. Code § 163.342(k) are applicable only to suspensions or fines, and not to the sanction of forfeiture of a purse. *Bush v. Commonwealth Horse Racing Commission*, 466 A.2d 254 (Pa. Cmwlth. 1983).

THE STARTER**§ 163.361. Duties of starter.**

(a) Only the starter or a deputy starter approved by him and by the stewards may start a race.

(b) The starter shall give the orders and take the measures necessary to insure a fair start.

(c) The decision of the starter as to the validity of a start shall be final, likewise, his decision as to whether or not a horse was locked in the gate shall be final, unless otherwise established by examination of the film of the race.

(d) The starter may appoint his assistant subject to the approval of the stewards.

(e) A horse is in the hands of the starter from the moment it enters the track on the way from paddock to post. The horse remains in his hands until off time.

(f) In case the alignment of the horses at the post is delayed, the starter may permit jockeys to dismount and their mounts to be attended.

(g) If, after reaching the starting post, a horse is so badly injured as to make it impractical or impossible for him to run in the race, the starter may, in the interest of time saving, excuse that horse, but shall notify the stewards before he starts the race. A horse so excused shall to all intents and purposes be considered as excused by the stewards.

§ 163.362. Order of horses.

A horse shall take its position in numerical order from the inside rail, that order to be determined by post positions.

§ 163.363. Use of starting gate.

(a) A flat race shall be started out of a starting gate approved by the Commission.

(b) [Reserved].

(c) [Reserved].

(d) If the starter or his assistants are unable, after reasonable efforts, to place a horse in its assigned position in the gate for a satisfactory start, or if a horse is fractious or unruly, the starter may order the horse into a different gate position or that it be placed outside of the gate behind the starting line or deny it the right of entry until it may be reinstated.

Source

The provisions of this § 163.363 amended through January 23, 1981, effective January 24, 1981, 11 Pa.B. 419. Immediately preceding text appears at serial page (51682).

§ 163.364. Delay of start.

The start may not be delayed on account of a bad-mannered horse.

§ 163.365. Schooling.

(a) The starter shall maintain a schooling list, and a horse shall be schooled, if and when required, under the personal supervision of himself or his assistants.

(b) Only the starter shall have the authority to designate the horses which shall constitute the schooling list.

(c) The starter shall file a copy of the schooling list with the racing secretary.

(d) The starter shall report to the racing secretary as soon as a horse on the list has been schooled sufficiently to be permitted to start.

(e) A horse will not be eligible to start until the starter orders the name stricken from his schooling list.

§ 163.366. Fines and suspension.

(a) The starter may fine or suspend a jockey for disobedience of orders for attempting an unfair advantage, but the fine may not exceed \$250. The suspension shall take effect in the same manner as provided in § 163.182 (relating to suspension).

(b) The starter shall report in writing to the stewards and to the racing secretary, fines and suspensions which he has imposed and no fines or suspensions, so reported, may be modified other than by the authority of the stewards.

§ 163.367. Misconduct.

A starter or his assistant may not mistreat or use abusive language to a jockey.

§ 163.368. Approval of starting ability of horses.

The approval of the starter of the starting ability of all 2-year-olds shall be obtained before they are permitted to start. Likewise, the starter's approval shall be obtained for older horses which have never started at a recognized meeting.

§ 163.369. Recalls.

When a closed gate is used for starting and the starter has pressed the electric button or signaled by word or otherwise that the race is off there may be no recall.

§ 163.370. Notification of stewards of exclusion of horses from race.

If a horse is locked in the gate, or if the starter excuses a horse from a race, he shall, in either or both cases, immediately notify the stewards who in turn shall immediately notify the manager of the pari-mutuel department.

§ 163.371. Other individuals on platform.

While exercising his official duties, the racing starter may not permit another individual on the starting platform.

Source

The provisions of this § 163.371 adopted August 8, 1980, effective August 9, 1980, 10 Pa.B. 3269.

THE PLACING JUDGES**§ 163.381. Duties of placing judges.**

(a) The placing judges shall occupy the placing judges' stand at the time the horses pass the winning post in a race, and their duty shall be to place and record five horses or as many more as they think proper in order of their finish in each race.

(b) The placing judges shall properly display the numbers of the first four horses in each race in the order of their finish.

(c) When the placing judges differ in their placing the majority shall prevail.

(d) The placing judges shall make public their decision as promptly as possible.

(e) If it is considered advisable to consult a picture from the finish camera, the placing judges shall post, without waiting for a picture, the placements that are in their opinion unquestionable, and after consulting the pictures, make the other placements.

(f) In determining the places of the horses at the finish of a race, the placing judge shall consider only the relative position of the respective noses of the horses.

(g) After the jockeys riding the first five horses to finish have been weighed in and found to have carried the correct weight, the clerk of the scales shall so notify the stewards, who shall notify the placing judges when the result is official.

(h) Upon receipt of the notice the placing judges shall promptly display the sign official.

(i) There may be no alteration of placement after the sign official has been purposely displayed.

(j) Nothing in this chapter may be construed to prevent the placing judges, with the approval of the stewards, from correcting an error before the display of the sign official or from recalling the sign official in case it has been displayed through error.

(k) The placing judges shall enforce § 163.163 (relating to weighing in).

(l) The placing judges shall file with the Commission a daily copy of the official placement of the first five horses in each race of that day, and shall supply to other officials such information in respect to the racing as the association may require.

RACING SECRETARY

§ 163.391. Duties of racing secretary.

The racing secretary shall discharge the duties of his office expressed or implied, as required by this chapter.

§ 163.392. Official program.

(a) The racing secretary shall compile an official program for each racing day, which states the time fixed for the first race and gives the names of the horses which are to run in each of the races of the day.

(b) The program shall indicate the order in which each race is to be run; the purse, conditions and distance of each race; the owner, trainer and jockey of each horse; each owner's racing colors; the weight assigned to each horse; his number and post position, color, sex, age and breeding. The program may show other pertinent data.

§ 163.393. Post positions.

Post positions shall be determined publicly by lot in the presence of the racing secretary or his deputy, one or more stewards or their deputies, and at least one trainer licensed by the Commission.

§ 163.394. Complete record of races.

The racing secretary shall keep a complete record of the races.

§ 163.395. Receipt and payment of moneys as agent of Association.

(a) The racing secretary shall receive the entries and declarations, and he or another person designated by the association may receive the stakes, forfeits, entrance moneys, fees (including jockeys' fees) purchase money in claiming races and other money that can properly come into his possession as agent for the association for which he is acting.

(b) The racing secretary shall pay over when due, moneys collected by him to the persons that are entitled to receive them.

§ 163.396. Inspection of licenses and other documents.

The racing secretary shall have the right to inspect an owner's, trainer's or jockey's license, partnership papers, papers and documents with respect to a con-

tract between a jockey and his employer; and papers relating to the appointment of authorized agents, jockey agents or to the adoption of colors or to stable names.

§ 163.397. Stable assignments.

The racing secretary shall assign to applicants the stabling that he deems proper to be occupied by horses in preparation for racing, and he shall determine conflicting claims of stable privilege.

§ 163.398. Notification of Commission of changes of trainers.

The racing secretary shall notify the Commission and the stewards daily of changes of trainers as reported to him by owners.

CLERK OF SCALES

§ 163.411. Duties of clerk of scales.

- (a) The clerk of the scales shall weigh the jockeys out and in.
- (b) The clerk of the scales shall record and publish on the notice board an overweight or a change of jockey, weight, as compared with those stated on the official program and shall promptly supply proper racing officials with pertinent changes.
- (c) The clerk of the scales shall promptly report to the stewards an infraction of the rules with respect to weight, weighing or riding equipment.
- (d) The clerk of the scales shall report to the racing secretary after each race the weights carried by each horse in each race, together with the name of each horse's jockey and the overweight carried by a jockey. He shall also report the post time and running time in each race and other data which may be required.
- (e) The clerk of the scales shall make riding engagements for jockeys and apprentice jockeys for those riders that may desire him to do so. There will be no charge for these services.

§ 163.412. Duties of jockey room custodian.

- (a) The jockey room custodian shall see that order, decorum and cleanliness are maintained in the jockey and scale rooms.
- (b) The custodian shall assist the clerk of the scales in any way that official requires.
- (c) The custodian shall see that no person, other than racing officials, the Commission and the necessary jockey room attendants, is admitted to the jockey room after 2 hours prior to the post time of the first race on a day of racing without consent of the stewards.

PADDOCK JUDGE**§ 163.421. Duties of paddock judge.**

- (a) The paddock judge shall be in charge of the paddock and the entire saddling area.
- (b) The paddock judge and the horse identifier shall check the contestants for the races and have the horses properly identified.
- (c) The paddock judge shall keep a record of equipment carried by the horses under his jurisdiction, permitting no change in unauthorized equipment.
- (d) The paddock judge shall, in each race, require the plater in attendance in the paddock to see that the horses are properly shod. The judge shall report the findings of the plater immediately to the stewards.
- (e) The paddock judge shall report irregularities to the stewards.
- (f) The paddock judge shall exclude from the paddock those persons who are not licensed by the Commission and who have no immediate business with the horses entered, except the members of the Commission and its staff.

Source

The provisions of this § 163.421 amended July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

PATROL JUDGES**§ 163.431. Powers and duties of patrol judges.**

- (a) An association shall appoint, subject to the approval of the Commission, at least three patrol judges, whose stations are designated by the stewards. The association shall provide some form of direct communication between each station of the patrol judges and the stewards.
- (b) They shall be subject to the orders of the stewards, and they shall report to them their pertinent observations in the races and shall file reports on the same in writing if so requested by the stewards.

Cross References

This section cited in 58 Pa. Code § 163.256 (relating to applicability of other rules).

TIMER**§ 163.441. Duties of timers.**

- (a) There shall be one or more timers. The timers shall determine the official time of each race.
- (b) When electric timing is used, the races shall also be timed otherwise.
- (c) The time shall be announced and displayed.
- (d) A written report of the time of each race shall be made to the clerk of the scales for the reports to the racing secretary.

(e) The time recorded for the first horse to cross the finish line shall be the official time of the race. If a horse establishes a track record in a race and is subsequently disqualified, the track record shall be void.

VETERINARIAN

§ 163.451. Qualifications and exclusions.

The track veterinarian shall be a graduate veterinary surgeon, in good standing and licensed to practice under the laws of the Commonwealth.

§ 163.452. Duties of track veterinarians.

(a) The veterinarian shall, in general, familiarize himself with the racing condition of the entrants and if, in his opinion, an entrant is not in condition to race, he shall notify the stewards and the racing secretary before 12:00 of the day of the race.

(b) The track veterinarian shall be present in the paddock before each race, and he shall inspect each entrant. If, in his opinion, an entrant is not in condition to compete in that race, he shall immediately notify the stewards, who shall order the horse scratched out of the race, and the horse automatically shall go on the veterinarian's list, and thereafter may not be permitted to enter until the veterinarian notifies the racing secretary and the stewards that the horse is again fit to compete.

(c) The track veterinarian shall be attendant on the stewards and the racing secretary at scratch time each morning, and shall examine the horse that they request, and make reports to the racing officials as promptly as possible.

(d) An owner or trainer may not employ a veterinarian who has not been licensed in accordance with the laws of the Commonwealth. A licensed veterinarian desiring to practice at the race track of an association shall be approved by the Commission State veterinarian and shall list his name with the racing secretary, who shall immediately notify the Commission. The association shall warn off unlicensed veterinarians. The veterinarians shall make daily reports to the State veterinarian and to the stewards of horses under treatment by them. A violation of this section shall be immediately reported to the Commission and the stewards.

(e) The State veterinarian shall take samples of the saliva, urine or blood from horses as are designated by the stewards or the Commission and make the examinations and tests that may be required by the stewards and the Commission.

(f) A veterinarian employed by the Commission or by an association may not be permitted, during the period of his employment to treat or prescribe for a horse then on the track or which is or is about to be entered in a race under the jurisdiction of the Commission, except in case of emergency, in which case a full report shall be made to the stewards.

(g) Notwithstanding the provisions of this section requiring certain functions to be performed by the State veterinarian, he may delegate duties to an authorized representative, approved by the Commission, so long as the delegation is not of a duty which would under the appropriate statutes be defined as the practice of veterinary medicine.

Source

The provisions of this § 163.452 amended through January 22, 1982, effective January 23, 1982, 12 Pa.B. 394. Immediately preceding text appears at serial page (51689).

§ 163.453. Veterinarian's list.

The track veterinarian shall maintain a list to be known as the veterinarians list upon which he shall enter the name of a horse which he considers unfit, unsound or not ready for racing. A horse, the name of which is on the veterinarians list, shall be refused entry until the track veterinarian removes its name from the list. A trainer may appeal to the stewards a decision to place a horse's name on the veterinarians list.

Source

The provisions of this § 163.453 adopted July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

Cross References

This section cited in 58 Pa. Code § 163.456 (relating to scope of veterinarian's list).

§ 163.454. Acceptance of horse from disability list.

The entry of a horse which has been excused from starting by the stewards on account of a disability shall be accepted no earlier than 48 hours after it has been excused or until its reentry has been approved by the examining association veterinarian and the stewards.

§ 163.455. [Reserved].

Source

The provisions of this § 163.455 reserved January 23, 1981, effective January 24, 1981, 11 Pa.B. 420. Immediately preceding text appears at serial page (51691).

§ 163.456. Scope of veterinarian's list.

The veterinarians list as defined in § 163.453 (relating to veterinarian's list) shall be binding on the several tracks under the jurisdiction of the Commission.

Source

The provisions of this § 163.456 amended July 14, 1972, effective July 15, 1972, 2 Pa.B. 1341.

§ 163.457. Veterinarian's drug responsibility.

A veterinarian administering drugs or other substances to thoroughbred horses regulated by the Commission shall be responsible to see that the drugs or other substances are administered in accordance with this part. If a specimen sample and split sample test disclose the presence of a drug or substance prohibited by this part, the Commission or stewards may hold a hearing to determine whether the prohibited drug or substance was received by or administered to the horse in question by a veterinarian in violation of this part. If it is determined that a violation occurred, the Commission will apply the sanctions, whether by fine or suspension of license, as the Commission deems appropriate.

Source

The provisions of this § 163.457 adopted September 18, 1981, effective September 19, 1981, 11 Pa.B. 3221.

DISCIPLINARY ACTION**§ 163.471. Disciplinary action for violations.**

(a) Whenever the Commission, stewards, starter or an authorized official acting under this chapter, finds a person or licensee to have been guilty of an act or omission in violation of either the letter or spirit of this chapter, or an act or omission not covered specifically by this chapter but deemed to require disciplinary action, or a violation of the act or its amendments, the person or licensee shall be subject to disciplinary action that the Commission or stewards deems commensurate with the offense committed. The disciplinary action may take the form of a fine, suspension, fine and suspension, revocation of license or the ruling off for life. Fines imposed may not exceed the provisions of the act.

(b) A racing official imposing a fine or suspension shall report it promptly to the racing secretary and the Commission in writing.

(c) Fines shall be paid within 48 hours to the horseman's accountant, who in turn shall promptly pay same to the State Treasury through the Department of Revenue and credit to the General Fund.

(d) If a fine is not paid in full within the time, the Commission may suspend the license of the individual. The suspension shall be lifted upon the full payment of outstanding fines so imposed.

(e) An unpaid fine may not be rescinded except with the approval of the Commission.

Source

The provisions of this § 163.471 amended August 26, 1977, effective August 27, 1977, 7 Pa.B. 2409.

REVIEW AND APPEAL**§ 163.481. Review and appeal.**

(a) The Commission may investigate and review a decision or ruling of the stewards or other racing official, upon its own motion or upon the written request of an aggrieved party. In the latter case, the appeal from the decision or ruling of the stewards or racing official shall be made in writing within 10 days from the oral or written notice of the decision or ruling, whichever first occurs. The appeal shall be sworn to before a notary public or one of the stewards of the meeting, and shall set forth briefly the alleged offense and penalty imposed and the reasons believed by the appellant to warrant a review of the decision by the Commission. Hearings on the appeals shall be in accordance with the hearing procedures set forth in Chapter 165 (relating to administrative rules).

(b) An appeal of a decision involving entries, qualifications, weights, conditions or the time or length of a race or the running thereof or an other decision arising under § 163.281 (relating to objections or protests) shall be made by filing a written appeal therefrom prepared in the manner prescribed in § 165.213 (relating to notice of penalty) and filed and received by the Commission no later than 48 hours after time of closing of entries for the race.

Source

The provisions of this § 163.481 amended through August 26, 1977, effective August 27, 1977, 7 Pa.B. 2409.

Notes of Decisions

There is no time requirement as to when the Commission must hold a hearing on an appeal of the suspension of a jockey's license. *Luzzi v. State Horse Racing Commission*, 548 A.2d 659 (Pa. Cmwlth. 1988).

Cross References

This section cited in 58 Pa. Code § 165.179 (relating to service and filing of papers).

PARTNERSHIP, COLORS AND STABLE NAME REGISTRATION**§ 163.491. Partnerships.**

(a) Partnerships shall be registered stating the names, addresses and Social Security Number and Federal Account Number of individuals having an interest in a horse, the relative interest and the terms of a sale with contingencies, lease or arrangement. The registration shall be signed by all parties or their authorized agents and be lodged at the Commission office before a horse which is a joint property, is sold with contingencies or leased can start in a race. Partners shall be jointly and severally liable for all stakes, arrears, forfeitures and other obligations. Registration fee is \$10.

(b) Statements of partnership, sales with contingencies, leases or other arrangements, shall declare among other things:

- (1) In whose name the horse is running.
- (2) With whom the power of entry and declaration is resting.
- (3) With whom the power of claiming for the partnership is resting.
- (4) To whom winnings are payable (which shall be the name of the nominator).

(c) In cases of emergency, which shall be decided by the Board of Stewards, authority to sign declarations of partnership may be given to the Commission by telegram or telephone, and shall be confirmed in writing promptly.

(d) A part owner of a horse cannot assign his share, or a part of it, without the prior written consent of the other partners.

(e) A horse involved in a partnership may not be permitted to enter or start until this chapter has been complied with.

(f) Providing the identity of the horse is satisfactorily established, incorrect, insufficient or imperfect description in the entry of a horse, or failure to register a partnership may be corrected before the horse race in which he is entered, or in a handicap before the weights are published or announced. This section may not be construed to allow a horse to start in a race for which it is not otherwise completely eligible under this chapter.

(g) [Reserved].

(h) A license as an owner may not be granted to a corporation or to the lessee of a corporation until all stockholders or beneficial owners thereof shall be registered. Each stockholder or beneficial owner shall file an application for an owner's license. The stockholders or members of a corporation and the corporation which owns or leases horses for racing purposes in this Commonwealth shall file with the Commission, when requested, a report containing the information that the Commission specifies. Upon refusal or failure to file the report the Commission may refuse a license to a lessee of the corporation or may revoke the license which it had granted.

Source

The provisions of this § 163.491 amended July 16, 1976, effective July 17, 1976.

§ 163.492. Colors registration.

(a) An owner shall annually register the racing colors to be used and pay the current fee payable.

(b) Symbols or markings may not be employed for false or deceptive advertising purposes.

(c) The stewards may grant permission for the temporary use of colors not registered pending application for their registration with the Commission.

(d) If an owner does not have colors currently registered, during the pendency of application he shall use colors designated by the association and approved by

the Commission to represent the pole position of starters. A person may not start a horse in colors other than those registered or prescribed without the permission of the stewards.

(e) Disputes concerning the right to a specific combination, design or arrangement in a set of colors shall be decided by the stewards pending registration or resolution by the Commission.

(f) The Commission will not permit the use of colors which are not neat, clean and proper or registerable.

(g) Responsibility for providing suitable registered colors rests with the owner. A fine may be levied for each improper usage or for delay or refusal to apply for or pursue application for them at the discretion of the stewards and the Commission.

(h) A temporary change in colors made after the printing of a program shall be announced before and during the post parade and shall be posted by the clerk of the scales.

Source

The provisions of this § 163.492 amended September 2, 1977, effective September 3, 1977, 7 Pa.B. 2560.

§ 163.493. Stable name registration.

(a) A stable name shall be registered annually with the Commission and the annual fee for the registration is \$50.

(b) In applying to race under a stable name, the applicant shall disclose the identity behind a stable name. If a partnership is involved in the identity behind a stable name, the rules covering partnerships shall be complied with and the usual fees paid, in addition to the fees for the registration of a stable name.

(c) Changes in identities shall be reported to and approval obtained from the Commission and the stewards.

(d) A trainer who is a licensed owner, or part owner, may use a stable name as owner or part owner. However, a trainer may not be licensed as trainer or assistant trainer other than in his legal name.

(e) A person who has been registered under a stable name may cancel it after he has given written notice to the Commission.

(f) A stable name may be changed by registering a new stable name and by paying the fee.

(g) A person cannot register as his stable name one which has been registered by another person with an association conducting a recognized meeting, or The Jockey Club of New York, or with another racing authority, and stable names shall be cleared with the National Association of State Racing Commissioners.

(h) A person may not register individually or collectively as a stable name, a name which is the real name of an owner of race horses, nor one which is the real or stable name of a prominent person not owning race horses.

(i) A stable name shall be plainly distinguishable from that of another registered stable name.

(j) With the consent of the Commission or the Commission's steward, a stable name may be transferred. The fee for the transfer is \$50, and a new application shall be made.

(k) A corporate name shall be considered a stable name for the purposes of this chapter, but the Commission reserves the right to refuse a corporation the privilege of registering a stable name.

(l) A stable name may not be used if, in the judgment of the stewards, it is being used for advertising purposes or a purpose not in the best interests of racing.

AUTHORIZED AGENTS

§ 163.511. Authorized agents.

(a) A person undertaking or purporting to act as an authorized agent shall apply and secure a license from the Commission before so acting.

(b) Application for a license shall be filed for each owner represented.

(c) Owner's revocations shall be filed in writing with the Commission and with the racing secretary.

(d) A trainer may not be licensed as an authorized agent or act as agent for an owner who does not have horses in his charge registered for racing at the meeting.

Source

The provisions of this § 163.511 amended November 24, 1978, effective November 25, 1978.

TRAINERS

§ 163.521. Duties of trainers.

(a) A licensed trainer may represent the owner in the matter of entries, declarations and the employment of jockeys. A licensed trainer may not have an interest, whether by ownership or lease, in a horse of which he is not the trainer at a race meeting at which the trainer is operating as a licensed trainer.

(b) A trainer who represents or files an application for an unlicensed owner shall file with the Commission an affidavit certifying that he will secure a license for the owner. The trainer shall be liable for a sanction, penalty or default of the filing of an owner's application until the same has been filed and the owner's license finally issued and shall be absolutely responsible for insuring the due, prompt and proper filing of the application.

(c) A trainer shall have his horse in the paddock at the time appointed.

(d) A trainer shall attend his horse in the paddock, and shall be present to supervise his saddling, unless he has obtained the permission of a steward to send another licensed trainer as a substitute.

(e) When a trainer is to be absent from his stable or the grounds where his horses are racing for a period of more than 2 racing days and horses are entered or are to be entered, he shall provide a licensed trainer to assume the complete responsibility of the horses he is entering or running. The licensed trainer shall sign in the presence of the stewards a form furnished by the Commission accepting complete responsibility for the horses being entered and running. This section does not apply to trainers having in their employ a licensed assistant trainer.

(f) A trainer shall be responsible for the condition of a horse trained by him. A trainer shall register with the racing secretary the horses in his charge, giving the name, age, sex, color, breeding and ownership of each, and he shall present the foal certificates at the time the horses arrive on the grounds.

(g) A trainer shall promptly report to the racing secretary the spaying or gelding of a horse giving the date of the procedure, and in the case of mares or fillies, a description of the procedure used. Spaying as used in this section includes any procedure including removal of ovaries rendering an animal incapable of reproduction. Gelding includes any procedure having the effect of castration.

(h) A trainer shall register with the Commission every person in his employ.

(i) A trainer may not enter or start a horse that:

(1) Is not in serviceable, sound racing condition.

(2) Has its median, volar or plantar nerves either blocked or removed. The horse is not permitted to race on Commonwealth tracks. A horse which has been nerved below the fetlock (digital nerves) may be permitted to start.

(3) Has been given internally or externally a stimulant, depressant, hypnotic or narcotic drug prior to the race.

(4) Is on the stewards', starter's or veterinarian's list in a racing jurisdiction.

(j) A licensed trainer may employ an assistant trainer. The assistant trainer shall be licensed before acting in the capacity on behalf of his employer. Qualifications for obtaining an assistant trainer's license shall be prescribed by the Commission. A licensed assistant trainer shall assume the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer shall be jointly responsible with his assistant trainer for all acts and omissions of the assistant trainer involving a racing matter.

Source

The provisions of this § 163.521 amended through March 19, 1982, effective March 20, 1982, 12 Pa.B. 994. Immediately preceding text appears at serial page (56266).

Notes of Decisions

It was a violation of this section for a horse trainer to negligently allow a horse to ingest caffeine from discarded coffee and cola drinks in the barn; the trainer has a positive duty to protect his horses from the administration of a foreign substance. *Yanofsky v. Horse Racing Commission*, 537 A.2d 92 (Pa. Cmwlth. 1988).

PENNSYLVANIA BREEDERS' FUND PROGRAM**§ 163.531. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Breeder—The owner of the dam at the time of foaling, and indicated as such on the certificate of registration issued by the Jockey Club.

Fund—The Pennsylvania Breeding Fund as created by section 223 of the act (4 P. S. § 325.223).

The Jockey Club—The breed registry organization for all thoroughbred horses in North America, having responsibility for maintaining the American Stud Book, which includes all thoroughbreds foaled in the United States, Canada and Puerto Rico, as well as thoroughbreds imported into those countries from other countries that maintain similar thoroughbred registries.

Pennsylvania-bred horse— A thoroughbred horse with respect to which all of the following apply:

- (i) The horse was foaled in this Commonwealth.
- (ii) The horse is the subject of a current certificate of registration issued by the Jockey Club.
- (iii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.
- (iv) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 163.535 (relating to records of registration).

Pennsylvania sire— A thoroughbred stallion with respect to which all of the following apply:

- (i) The horse regularly stands in this Commonwealth.
- (ii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.
- (iii) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 163.535; and is so registered each year the stallion stands in Pennsylvania.

Authority

The provisions of this § 163.531 amended under sections 202 and 223(b) the Race Horse Industry Reform Act (4 P. S. §§ 325.202 and 325.223(b)).

Source

The provisions of this § 163.531 amended October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094; amended October 6, 2006, effective October 7, 2006, 36 Pa.B. 6095. Immediately preceding text appears at serial page (260218).

§ 163.532. Eligibility for Pennsylvania-bred races.

To be eligible for preferences in races in which registered Pennsylvania-breds are preferred and to be eligible for entry in races which are restricted by condition to registered Pennsylvania-breds, a horse shall be registered as a Pennsylvania-bred with the Pennsylvania Horse Breeders Association at the time of entry.

Source

The provisions of this § 163.532 amended December 23, 1977, effective December 24, 1977, 7 Pa.B. 3934; amended October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094. Immediately preceding text appears at serial page (236710).

§ 163.533. [Reserved].**Source**

The provisions of this § 163.533 reserved October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094. Immediately preceding text appears at serial page (236710).

§ 163.534. [Reserved].**Source**

The provisions of this § 163.534 amended June 18, 1976, effective June 19, 1976, 6 Pa.B. 1417; reserved October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094. Immediately preceding text appears at serial pages (236710) to (236711).

§ 163.535. Records of registration.

Foals and sires eligible for registration shall be registered on official registration forms approved by the Commission and maintained by the Pennsylvania Horse Breeders Association. The registrar shall certify thereon the name and address of the owner, breeder, farm where mare was covered, farm of which this horse was foaled, owner of stallion at time the mare was covered, stallion by which the mare was covered following the birth of the thoroughbred to be registered, breeder social security or tax identification number, Jockey Club registration number, name of foal, color and sex of foal, date of foaling, sire, dam, sire of the dam, signature of the owner, or breeder or authorized representative and the date of application.

(1) The registration record shall be maintained at the headquarters of the Pennsylvania Horse Breeders Association and be open to public inspection during normal business days and hours.

(2) Immediately upon completion and filing of the form, the Pennsylvania Horse Breeders Association shall cause a correct copy of it to be filed with the offices of the Commission in Harrisburg.

Cross References

This section cited in 58 Pa. Code § 165.531 (relating to definitions).

§ 163.536. Appeals.

A person having an interest in the matter shall have the right to file objections or exceptions to a registration and to the facts set forth therein within 30 days of the filing of the copy with the Commission. The objections or exceptions shall be delivered in writing to the Pennsylvania Horse Breeders Association and a duplicate delivered to the Commission within the time. The Pennsylvania Horse Breeders Association shall rule upon the objections or exceptions within the 10 days of the delivery and receipt. An interested party aggrieved of an action taken by the association may appeal to the Commission in the manner prescribed for appeals in § 165.185 (relating to appeals) of the Commission, promulgated under section 20 of the act of December 11, 1967 (P. L. 707, No. 301) (15 P. S. § 2670) (Repealed). The Commission shall hear and determine an appeal de novo. In the absence of objections or exceptions timely made, a registration shall be deemed final and binding and an official record of the Commission for all purposes under the act of December 30, 1974 (P. L. 1115, No. 358), at the expiration of the 30th day of the delivery to the Commission. The Commission shall thereafter have the right on its own motion to correct an error or inaccuracy that it may find within the records.

§ 163.537. [Reserved].

Source

The provisions of this § 163.537 reserved October 1, 1999, effective October 2, 1999, 29 Pa.B. 5094. Immediately preceding text appears at serial page (236712).

§ 163.538. Purses and awards.

(a) A prize awarded under this section shall be in accordance with the standards for purses at each racing meet as approved by order of the Commission. Each prize shall be advanced to the Horsemen's Bookkeeper Account as won or earned at each meet by the racing association conducting the meet. The racing association shall maintain a separate ledger of them and shall transmit a certified copy of allowances, prizes and purses made no later than every 10th day of each month of the meets to the Commission. After the Commission has reviewed and approved them, it shall reimburse the racing association for the advances made which the Commission finds proper.

(b) The Pennsylvania Breeders Association shall compile awards earned by breeders, owners of Pennsylvania sires and owners of Pennsylvania-bred horses

and maintain a separate ledger of them. Monthly, a certified report of awards earned shall be forwarded to the Commission. After the Commission has reviewed and approved them it will be forwarded to the Department of Treasury for payment to the awardees. Awards shall be provided for as follows:

(1) *Awards to breeders.* An award of 30% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred horse, or an award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred horse sired by a nonregistered sire, which finishes first, second or third in any race conducted by a licensed corporation under the act shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred horse. A single award under this paragraph may not exceed 1% of the total annual Fund money.

(2) *Awards to owners of registered Pennsylvania sires.* An award of 10% of the purse earned by any Pennsylvania-bred thoroughbred horse which finishes first, second or third in any race conducted by a licensed corporation under the act shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of the Pennsylvania-bred thoroughbred horse. A single award under this paragraph may not exceed .5% of the total annual Fund money.

(3) *Awards to owners of Pennsylvania-bred horses.* An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred horse which finishes first in any race conducted by a licensed corporation under the act not restricting entry to registered Pennsylvania-bred thoroughbred horses shall be paid to the licensed owner of the registered Pennsylvania-bred thoroughbred horse at the time of winning. A single award under this paragraph may not exceed .5% of the total annual Fund money.

(c) A person interested in the awards, allowances, prizes and purses and objecting to calculations or determinations thereof as shown on the records of the racing association, the Pennsylvania Breeders Association and the horsemen's bookkeeper, shall be responsible for taking written appeals to the Commission in the manner provided for appeals from decisions of the association pertaining to registrations.

(d) The Commission will have the right to review and approve fees and charges imposed by the Breeders Association for a program. The charge or fee may not be imposed without prior approval by the Commission.

(e) Records, funds and accounts of funds, prizes, purses, allowances and awards under this program shall be maintained separate from other records, funds and accounts and may not become mingled with other matters. The records, funds and accounts shall be kept continuously open for inspection by the Commission.

Authority

The provisions of this § 163.538 amended under sections 202 and 223(b) of the Race Horse Industry Reform Act (4 P. S. §§ 325.202 and 325.223(b)).

Source

The provisions of this § 163.538 amended October 6, 2006, effective October 7, 2006, 36 Pa.B. 6095. Immediately preceding text appears at serial page (260220).

[Next page is 165-1.]