

CHAPTER 7897
MINNESOTA RACING COMMISSION
PROHIBITED ACTS

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7897.0100 PROHIBITED ACTS.

Subpart 1. Scope. The following activities are considered prohibited acts.

Subp. 2. Violations of laws. No person shall engage in conduct which is in violation of federal, state, or local criminal or civil laws.

Subp. 3. Possession of firearms or weapons. No person except as authorized by the commission or association, shall possess while on the grounds of an association a firearm or other dangerous weapon as defined in Minnesota Statutes, section 609.02, subdivision 6.

Subp. 4. Destruction of property. No person shall damage or destroy property of the association or another by fire or any other means.

Subp. 5. Smoking. No person shall smoke in nonsmoking areas as designated by the commission or the association.

Subp. 6. Altercations. No person shall provoke or engage in a physical altercation while on the grounds of an association.

Subp. 7. Cooperation with security officers. No person shall fail to comply with orders of security officers or interfere with security officers in the performance of their official duties.

Subp. 8. Contact with jockeys/drivers. No persons, except as authorized by the stewards, shall communicate or attempt to communicate with a jockey or driver during racing hours, or attempt to gain entrance to the jockeys'/drivers' quarters at any time.

Subp. 9. Fraud. No person shall engage in any fraud or misrepresentation with regard to the breeding or racing of horses.

Subp. 10. Financial responsibility. No licensee shall willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, nor shall he or she falsely deny any such amount due or the validity of the claim therefor with the purpose of hindering or defrauding the person to whom the indebtedness is due. All financial responsibility complaints against a licensee shall be made in writing, signed by the complainant, and accompanied by (a) a judgment from a court of competent jurisdiction; or (b) a check, issued by the licensee or by a business entity owned or controlled by the licensee, which indicates on its face that the bank upon which the check is drawn has refused payment due to insufficient funds, alteration, forgery, or because the check was written on a closed or nonexistent account.

Subp. 11. Nerved horses. No person shall bring onto the grounds of a racetrack for the purpose of racing or selling any horse which has had a nerve removed from its leg, other than a horse upon which a posterior digital neurectomy has been performed below the lowest aspect of the base of the proximal sesamoid bones.

Subp. 12. Horses with impaired vision. No person shall bring onto the grounds of a racetrack, or enter or cause to be entered in any race, or sell or offer

for sale, any horse which has impaired vision in both eyes or suffers from periodic ophthalmia (commonly referred to as "moon blindness").

Subp. 13. **Failure to obtain license.** No person shall fail to secure a Class C license, if required, prior to the performance of his or her occupational duties.

Subp. 14. **Employing unlicensed personnel.** No licensee shall employ unlicensed personnel unless licenses are not required for such personnel.

Subp. 15. **Removing a horse without permission.** No person shall remove from the stable area of a licensed racetrack any horse without the written permission of the racing secretary or the stewards.

Subp. 16. **Helmets to be worn.** No person shall ride or drive a horse while on the grounds of an association without a properly fastened protective riding helmet.

Subp. 17. **Hypodermic equipment and injectable substances prohibited.** The following shall apply to the possession of hypodermic equipment and injectable substances while on the grounds of an association:

A. While within a restricted area of a licensed racetrack no person, other than a veterinarian, shall have in his or her possession any equipment for hypodermic injection or any substance for hypodermic administration. A noninjectable medication prescribed by a veterinarian for an existing condition may be possessed, provided its user has a valid current prescription and its use is consistent with the purposes of this chapter.

B. Notwithstanding item A, any person may have in his or her possession within a restricted area of a licensed racetrack:

(1) a chemical or biological substance for his or her own personal use; provided, that if such chemical substance is prohibited from being dispensed by any federal or state law without prescription, he or she possesses documentary evidence that a valid prescription for such substance has been issued to him or her; and/or

(2) a hypodermic syringe or needle for the purpose of administering a prescribed chemical or biological substance to himself or herself, provided that he or she has notified the stewards of the possession of such device, the size of such device, and the chemical substance to be administered by the device.

Subp. 18. **Possession of electrical devices.** No person, while on the grounds of an association, shall have in his or her possession any electrical or mechanical device or other appliance, other than an ordinary riding whip, that could be used for the purpose of stimulating a horse or affecting its speed in a race or workout.

Statutory Authority: *MS s 240.23; 240.24*

History: *9 SR 2527; 10 SR 1908; 12 SR 2393*

7897.0110 USE OF DRUGS AND ALCOHOL.

Subpart 1. **Drugs.** The commission, the commission's director of security, or the stewards may, at any time, require any licensee whose duties place him or her in a position of danger, or who commits an act that endangers a horse or human, to provide blood or urine samples for chemical analysis. If such a licensee fails to comply with this requirement, the licensee shall be suspended and referred to the commission to show cause for refusing to do so.

Should a licensee be found to have levels of any nonprescription, prohibited, or illegal drug, the licensee shall be subject to disciplinary action by the stewards and the commission.

Subp. 2. **Alcohol.** A blood-alcohol level of greater than 0.03 percent in jockeys or drivers, or 0.10 percent or greater in any other Class C licensee or employee or agent of a Class A or Class B licensee, while on the premises of a licensed racetrack, is prohibited.

Statutory Authority: *MS s 240.16; 240.23*

History: *9 SR 2527; 11 SR 2201*

7897.0115 FAILURE TO APPEAR.

No licensee shall fail to appear in any court of competent jurisdiction on any criminal complaint, indictment, tab charge, citation, or bench warrant.

Statutory Authority: *MS s 240.23*

History: *11 SR 2201*

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. Licenses. Any licensee engaging in any prohibited act as provided in parts 7897.0100 to 7897.0115 is subject to license suspension or revocation, and/or the levying of a fine as provided in part 7897.0130.

Subp. 2. Exclusion from racetrack. Any person engaging in any prohibited act as provided in part 7897.0100 is subject to exclusion pursuant to Minnesota Statutes, section 240.27, from all licensed racetracks under the jurisdiction of the commission.

Subp. 3. Reciprocity of rulings. The commission or the stewards may suspend or revoke a Class C license if it is found that the licensee, or any person who is an agent, employee, or associate of such licensee:

A. is presently under suspension or his or her license has been revoked for any reason by a legally constituted racing commission of another jurisdiction; or

B. becomes suspended or has his or her license revoked for any reason by a legally constituted racing commission of another jurisdiction while such licensee is participating in racing in Minnesota.

Before considering a licensee for reinstatement in Minnesota, the commission or stewards shall require such licensee to obtain reinstatement in the original racing jurisdiction where his or her license was suspended or revoked, and to establish his or her fitness to be reinstated in Minnesota.

Statutory Authority: *MS s 240.13 subd 5; 240.15 subd 2; 240.16 subds 4,5,6; 240.18; 240.23; 240.25 subd 4 cl (a)*

History: *9 SR 2527; 10 SR 1908; 11 SR 2201*

7897.0130 SCHEDULE OF FINES.

Subpart 1. Imposition of fines. The commission may impose a civil fine upon any licensee for a violation of laws related to horse racing or the commission's rules after a determination of the severity of the violation. The stewards may impose a civil fine upon a Class C licensee.

Subp. 2. Categories of violations. The commission or stewards shall assign a violation to one of the following categories:

A. A "serious violation" is a failure to comply with law or rule when the failure has a substantial adverse effect on the integrity of pari-mutuel horse racing, public welfare, health, or safety.

B. A "violation" is any failure, other than a serious violation, to comply with a law or rule.

Subp. 3. Assignment of categories. In assigning a violation to a category, the commission or stewards shall consider the following factors:

A. inherent severity of the conduct as indicated by the potential harm to person, property, or the integrity of racing;

B. culpability of the violator;

C. frequency of the violator's failure to comply with law or rule;

D. actual harm caused to person, property, or the integrity of racing; and

E. any other factors related to the seriousness of violations which the commission or stewards deem crucial to assignment as long as the same factors are considered with regard to all violators. The commission or stewards, in

making a determination, shall consider both the number of factors applicable to a violation and the degree to which each applies.

Subp. 4. Serious violations. Violations of Minnesota Statutes, section 240.25, misrepresentation of the identity of a horse, possession of a firearm on the racetrack premises except by an authorized security officer, and setting or attempting to set a fire on the racetrack premises, shall be deemed per se serious violations.

Subp. 5. Amount of fines. The fine for a serious violation of law or rule shall be \$500 to \$5,000. The fine for other violations shall not exceed \$499. The commission may impose a fine in excess of \$5,000 but no more than \$200,000 against a Class A, B, or D licensee as necessary to enforce parts 7870.0430, 7870.0450 to 7870.0470, or 7870.0500.

Subp. 6. Timetable for paying fines. All fines imposed by the stewards or commission must be paid within 72 hours of the date of the ruling imposing the fine. Failure to pay the fine within the required time is grounds for suspension.

Statutory Authority: *MS s 240.22; 240.23*

History: *9 SR 2527; 11 SR 2201*

7897.0140 SUSPENSION OR REVOCATION.

Any ground for denial of a license also is a ground for imposition of a fine, suspension, or revocation of the license.

Statutory Authority: *MS s 240.08; 240.22; 240.23*

History: *9 SR 2527*

7897.0150 DISCIPLINARY AND APPEAL PROCEDURES.

Subpart 1. Stewards' meetings. Whenever the stewards have reasonable cause to believe that a Class C licensee has committed an act or engaged in conduct in violation of statute or rules of the commission or which in the opinion of the stewards otherwise adversely affects the integrity of horse racing, the following procedures will apply:

A. The licensee shall be immediately subject to such intermediate conditions, limitations, and restrictions as the stewards decide necessary to protect the public safety, health, and welfare and to ensure the integrity of racing.

B. Within three days of the matter coming to the attention of the stewards, the licensee shall be summoned to a meeting of the stewards called for the purpose of investigating suspected or alleged misconduct by the licensee at which all stewards or their appointed deputies shall be present; however, the licensee may request a continuance and such continuance need not necessarily stay any intermediate sanction.

C. The summons given to the licensee shall be in writing and give adequate notice of the date, time, place, and purpose of the stewards' meeting, and shall specify by number the statutes or rules allegedly violated.

D. Every person called to testify before the stewards at such meeting is entitled to have counsel or an observer of the person's choosing present at the meeting; however, such counsel or observer may only participate under such conditions or in such manner as the stewards direct.

E. If a licensee, after receiving adequate notice of a stewards' meeting, fails to appear as summoned, the licensee will be deemed to have waived any right to appear and present evidence to the stewards.

F. No special announcement of the meeting or of the alleged infraction of rules shall be made until after the stewards' meeting, when the stewards shall transmit a signed written decision to the commission and to the licensee containing the stewards' findings and the penalty imposed.

G. In the event the stewards are unable to arrive at a decision by a

majority vote, the matter will automatically be referred to the commission and treated as an appeal.

Subp. 2. Penalties imposed by stewards. The stewards may suspend the license of the holder up to 90 days, and/or impose a fine of up to \$2,000 in accordance with the schedule of fines in part 7897.0120; or they may order any other appropriate disciplinary or corrective action.

Subp. 3. Appeal to commission. A stewards' decision regarding a licensee may be appealed to the commission by:

A. The stewards or any person affected by the decision if such person believes that a greater sanction than that ordered by the stewards is warranted.

B. The licensee asking the commission to reverse the stewards' decision in whole or part or to lessen the sanction ordered by the stewards.

C. All appeals to the commission will be heard de novo and are not subject to the contested case procedures.

Subp. 4. Review or complaint by executive secretary or motion of commission. Nothing in this chapter precludes the commission from instituting proceedings to review a stewards' decision on its own motion or complaint of the executive secretary.

Subp. 5. Stays of stewards' decisions. An appeal of a stewards' decision will not automatically stay the decision. A party may request the executive director to stay the decision. The executive director may order a stay unless he or she determines that a stay would adversely affect the public welfare.

Subp. 6. Procedure for appeal of decision of stewards. Any affected party may appeal a decision of the stewards by filing with the executive director a written request for an appeal within three days, excluding Saturday, Sunday, and holidays, after the stewards have orally advised the affected party of the decision. The written request shall contain the following information:

A. the name, address, and telephone number, if any, of the appellant;

B. a description of the objections to the decision of the stewards;

C. a statement of the relief sought;

D. the date on which the decision was made; and

E. whether the appellant desires to be present in person at the hearing of the appeal.

Subp. 7. Deposit shall be required. The appellant shall deposit with the commission at the time of filing his or her written request for an appeal the sum of \$50. The sum will be refunded by the commission upon the conclusion of the appeal unless the commission finds that the appeal was frivolous, in which case the \$50 will be forfeited. In addition, if the commission determines that the appeal was commenced in bad faith for purposes of delay or was unreasonable and without substance or merit, the commission may impose a fine of not more than \$450.

Subp. 8. Commission shall set date for hearing. Within five days, excluding Saturday, Sunday, and holidays, of receipt of a written request for an appeal and the \$50 deposit, the commission chair shall set a date, time, and place for the hearing, and shall give at least ten days' notice of the hearing to the appellant and any other party affected by the appeal. Such notice shall be in writing and shall set out the date, time, and place of the hearing, and shall be served personally or sent by mail to the last known address of the appellant and any other party affected by the appeal.

Subp. 9. Appeal by commission. When the commission institutes an appeal on its own motion or at the request of the stewards or executive secretary, a notice of appeal shall be served personally or sent by mail to each person who may be affected by the appeal, addressed to his or her last known place of residence, at least ten days prior to the hearing of the appeal. This notice of appeal shall contain the following:

- A. the decision being appealed from;
- B. the date on which the decision was made;
- C. the grounds of the appeal; and
- D. the date, time, and place on which the commission proposes to hear the appeal.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: *9 SR 2527; 11 SR 2201*

7897.0160 COMPOSITION OF HEARING PANEL.

Subpart 1. Designation of panel. All appeals of stewards' rulings may be heard by a panel of three or more commission members. The commission chair shall appoint the panel members and shall also designate one of them as the chair of the panel.

Subp. 2. Hearing panel's decision. All decisions of the hearing panel must be made by majority vote. In the event the hearing panel is unable to arrive at a decision by a majority vote, the commission will consider the appeal based on the record before the hearing panel. The hearing panel shall issue its written decision within ten days, excluding Saturday, Sunday, and holidays, based on the record and must include the hearing panel's findings of fact and conclusions on all material issues. A copy of the hearing panel's decision shall be served upon all parties by first class mail.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: *9 SR 2527*

7897.0170 CONDUCT OF APPEAL HEARING.

Subpart 1. Rights of parties. All parties shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues, and to cross-examine witnesses.

Subp. 2. Witnesses. Any party may be a witness or may present witnesses on his or her behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation. At the request of a party or upon the motion of the hearing panel, witnesses may be sequestered from the hearing room during the testimony of other witnesses.

Subp. 3. Admissible evidence. The hearing panel may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence which reasonable, prudent persons are accustomed to rely upon in the conduct of their serious affairs. The hearing panel shall give effect to the rules of legal privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious may be excluded. All rulings on evidentiary matters shall be made by the chair of the hearing panel.

Subp. 4. Evidence part of record. All evidence to be considered in the case, including all records and documents in the possession of the stewards or commission, or a true and accurate photocopy thereof, may be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case.

Subp. 5. Documents. Documentary evidence in the form of copies or excerpts may be received or incorporated into the record by reference in the discretion of the hearing panel, or upon agreement of the parties.

Subp. 6. Official notice of facts. The hearing panel may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any party to contest the facts so noticed.

Subp. 7. Burden of proof. The party proposing that certain action be taken must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden or standard.

Subp. 8. Examination of adverse party. A party may call an adverse party or his or her managing agent or employees, or an officer, director, managing agent, or employee of the state or any political subdivision thereof or of a public or private corporation or of a partnership or association or body politic which is an adverse party, and interrogate him or her by leading questions and contradict and impeach him or her on material matters in all respects as if he or she had been called by the adverse party. The adverse party may be examined by his or her counsel upon the subject matter of his or her examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by his or her testimony.

Subp. 9. Record of proceedings. All proceedings before the hearing panel must be recorded. Court reporters may be used upon the request of any party; however, the court reporter's cost shall be borne by the requesting party.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: 9 SR 2527

7897.0180 SUBPOENAS.

Subpart 1. Written request. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the hearing panel and shall contain a brief statement demonstrating the potential relevance of the testimony or evidence sought, and shall identify any documents sought with specificity, and shall name all persons to be subpoenaed.

Subp. 2. Service. A subpoena shall be served in the manner provided by the rules of civil procedure for the district court of Minnesota, unless otherwise provided by law. The cost of service, fees, and expenses of any witnesses subpoenaed shall be paid by the party at whose request the witness appears. When the subpoena is issued on behalf of the commission or employees thereof, fees and expenses need not be paid. The person serving the subpoena shall make proof of service by filing a copy of the subpoena with the hearing panel, together with an affidavit of service.

Subp. 3. Motion to quash. Upon motion made promptly and, in any event, at or before the time specified in the subpoena for compliance therewith, the hearing panel may quash or modify the subpoena if it finds that it is unreasonable or oppressive.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: 9 SR 2527

7897.0190 DISCIPLINARY ACTION BY COMMISSION.

Subpart 1. Contested case hearings. The commission may take the following disciplinary action only after a contested case hearing held in accordance with the contested case procedures in Minnesota Statutes, chapter 14 and rules adopted pursuant thereto:

- A. revoke a Class A, B, C, or D license;
- B. suspend or fine a Class A, B, or D license; and
- C. suspend a Class C license for more than 90 days, and/or fine a Class C license in an amount exceeding \$2,000.

Subp. 2. Procedure. The commission shall notify a licensee in writing of the charges and intended disciplinary action, and of the licensee's right to a contested case. Any contested case hearing shall be commenced in the manner provided for in Minnesota Statutes, chapter 14, and rules adopted pursuant thereto.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: 9 SR 2527; 11 SR 2201

7897.0200 COMMISSION DECISION.

Subpart 1. **Exceptions.** Parties adversely affected by the report of the administrative law judge shall have 20 days from the date of service of the report to file exceptions with the commission and request an opportunity to present written arguments to the commission.

Subp. 2. **Consideration of arguments.** If there has been a request for an opportunity to present written arguments, the commission shall, as soon as practicable, set dates for the filing of such arguments and give reasonable notice thereof to all parties to the contested case.

Subp. 3. **Decision or order.** The decision or order shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceeding shall be served personally or by first-class mail with a copy of the decision or order and accompanying statement of reasons.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: 9 SR 2527

7897.0210 REHEARING.

Subpart 1. **Limitations.** The commission may, upon request or its own motion and for good cause shown, reopen, rehear, and redetermine a contested case after a final decision has been reached adverse to a party to the contested case other than the commission. This right may be exercised until it is lost by appeal or until a reasonable time has run, but in no event shall the time exceed the time allowed by statute for appeal or six months, whichever is shorter.

Subp. 2. **Parties other than commission.** At any time prior to the commission's loss of the right to rehear a contested case, any party to that case may request a rehearing by filing a petition for rehearing. Such petition shall contain the name and address of the petitioner, the commission designation for the case, and the basis for the petition.

Subp. 3. **Commission's own motion.** The commission may, on its own motion, for good cause stated in the record, reopen, rehear, and redetermine a contested case if the decision was adverse to a party to that case other than the commission.

Subp. 4. **Default judgments.** A party against whom a default has been adjudged pursuant to part 1400.6000 may obtain a rehearing upon a timely showing of good cause for his or her failure to appear or plead.

Subp. 5. **Determination.** The commission shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted if there appears on the face of the petition and the record irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence, a lack of substantial evidence to support the decision, or good cause for failure to appear or plead. Evidence and argument may be presented at the discretion of the commission in written or oral form, or both, by any party to the contested case with respect to the petition.

Subp. 6. **Rehearing procedure.** A rehearing in a contested case shall be conducted in the same manner prescribed by the rules of the office of administrative hearings.

Subp. 7. **Decision after rehearing.** The decision after rehearing shall be made in the same manner prescribed for the decision after the hearing.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: 9 SR 2527

7897.0220 APPEAL BY COMMISSION.

The commission may appeal pursuant to Minnesota Statutes, sections 14.63

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to 14.68 any adverse decision. The commission shall be deemed a "person" for such purposes.

Statutory Authority: *MS s 240.08; 240.10; 240.16; 240.19; 240.22; 240.23*

History: *9 SR 2527*