



Ohio Administrative Code Rule 3769-8-09 Use of drugs prohibited.

Effective: February 6, 1999

(A) In order to ensure the public safety and protect the integrity of horse racing in the state of Ohio, the commission intends to regulate the use of any drug of abuse, as governed by division (A) of section 3719.011 of the Revised Code, by any licensee who is responsible for the conduct of a race or whose duties include the training, exercising, riding or caring for a horse. It shall also include all track employees who, while at work operate mechanical devices of any type which could cause injury to the operator of such device or to others. Mechanical devices include but are not limited to motor vehicles, tractors and mowers.

(B) For purposes of this rule, "licensee" means any person licensed by the commission whose duties include any of the following: training, exercising, riding or caring for a horse or any licensed racing official who is involved in the conduct of a race, including but not limited to:

- (1) Apprentice jockey;
- (2) Assistant starter;
- (3) Assistant trainer;
- (4) Dentist;
- (5) Exercise boy/girl;
- (6) Groom;
- (7) Horseshoer;
- (8) Jockey;



(9) Maintenance and track conditioning employees;

(10) Any official whose appointment must be approved by the Ohio state racing commission as identified in rule 3769-2-10 of the Administrative Code;

(11) Outrider;

(12) Owner;

(13) Paddock judge;

(14) Starter;

(15) Steward;

(16) Trainer;

(17) Valet;

(18) Veterinarian;

(19) Veterinarian's assistant.

(C) The personal use of any drug of abuse, as defined in division (A) of section 3719.011 of the Revised Code, is prohibited without a legal prescription. Acting with reasonable cause or through random selection by lottery, the state steward, secretary of the commission, any member of the commission, any investigator employed by the Ohio state racing commission, or the chief of security at the track may direct any licensee, as defined in paragraph (B) of this rule, to submit a sample of their urine to the track physician or other representative of the commission. The urine sample shall be provided in the manner prescribed by the commission. Any random selection by lottery may be witnessed by a representative of the licensee group involved. The commission may alter the number of names to be drawn each day and for each race.



(D) Such samples or tests pursuant to the requirements in paragraph (C) of this rule may be requested at any time a licensee is acting within the scope of his or her license while on the premises of an Ohio state racing commission permit holder. When a licensee has been given notice by the state steward, any member of the commission, the secretary of the commission, commission investigator or inspector or the chief of security at the race track, it shall be considered a failure and/or refusal if the licensee does not provide a valid urine sample prior to the end of the last race on that day.

(E) Failure or refusal of any licensee to supply a valid urine sample when requested to do so by one or more of the persons designated in paragraph (C) of this rule shall subject the licensee to an immediate fine of two hundred fifty dollars and a suspension of sixty days for a first offense. A second and all subsequent failures or refusals to provide a requested urine sample shall subject the individual to a fine of one thousand dollars and a suspension of one year, and in addition, the individual shall be referred to the Ohio state racing commission for any further action deemed necessary.

(F) In the event that the urine analysis results should disclose the presence of any drug of abuse prohibited in paragraph (C) of this rule, the following action shall be taken:

(1) For a first offense, an official ruling will be issued notifying the licensee that his or her sample or test was positive for a prohibited substance and that he or she will be subject to future mandatory drug testing. In addition, upon the delivery of such official ruling, the individual shall be immediately suspended for ten days and fined two hundred fifty dollars.

(2) For a second offense, an official ruling will be issued indicating the licensee has tested positive for a prohibited substance on two occasions. Upon delivery of such official ruling, said individual's license shall be immediately suspended for a period of twenty days and the licensee shall be fined the sum of two hundred fifty dollars. The licensee will be prohibited from participating in racing in the state of Ohio until he or she presents the state steward with proof that he or she has voluntarily enrolled in a rehabilitation program approved by the commission, and a report from said program indicating the licensee's satisfactory attendance and participation in the program.

(3) For a third or subsequent offense, the licensee shall immediately be fined one thousand dollars and suspended for one year. In addition, his or her case will be referred to the commission for further



action. The licensee shall also be required to provide proof that he or she has satisfactorily completed a commission approved substance abuse program prior to the commission considering his or her application for any type of a license.

(G) In the event any licensee subject to this rule is taking a substance pursuant to a valid prescription on order from a licensed physician or dentist, it shall be that licensee's responsibility to give written notice of same to the state steward prior to participating in any racing activities. The written notice shall contain the following:

(1) Name of the substance;

(2) The quantity and dosage of the substance prescribed.

(H) Any work product resulting from an investigation pursuant to this rule shall be a confidential law enforcement investigatory record as defined in section 149.43 of the Revised Code.

(I) All urine analyses shall be conducted at the expense of the commission by the Ohio state university testing laboratory or other testing laboratory approved by the commission.

(J) Any licensee receiving an official ruling alleging a violation of this rule may request a hearing in accordance with the provisions of Chapter 119. of the Revised Code and rule 3769-7-42 of the Administrative Code.

(K) Information concerning positive test results will be released only in accordance with section 149.43 of the Revised Code the public records statute.