IDAPA 11 – IDAHO STATE POLICE

Idaho State Racing Commission

11.04.15 – Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants

Who does this rule apply to?
Racing officials/stewards, Idaho State Racing Commission, racing owners/participants/jockeys, industry associations/stakeholders, and members of the general public who engage in betting/wagering.

What is the purpose of this rule?
These rules provide regulatory safeguards for the integrity of imminent horse races, the safety of horses and personnel involved in races, and the prevention of monetary fraud upon racing industry members and the public. They also create consistent enforcement during racing seasons on all those involved in those races.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

Professions, Vocations, and Businesses -
Horse Racing:

- Section 54-2506, Idaho Code – Duties of Commission and Licensees — License Fee
- Section 54-2507, Idaho Code – Authority of commission
- Section 54-2508, Idaho Code – License – Application therefor – Type and Number of Races — Fee per day — Refund — Cancellation — Hearing — Simulcast Purse Moneys Fund
- Section 54-2509, Idaho Code – Penalty for Violations of Law — Power of Commission
- Section 54-2512, Idaho Code – Pari-Mutuel Betting — Other Betting Illegal
- Section 54-2513, Idaho Code – Horse Racing — Distributions of Deposits — Breakage
- Section 54-2514, Idaho Code – Dog Racing — Distribution of Deposits — Breakage

Who do I contact for more information on this rule?

Idaho State Police
Idaho State Racing Commission
Monday through Friday, 8:00 a.m. to 5:00 p.m
700 S. Stratford Drive
Meridian, ID 83642
Phone: (208) 884-7080
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11.04.15 – RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING OF LICENSEES AND APPLICANTS

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.15, "Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants," of the Idaho State Racing Commission. (3-20-20)T

02. Scope. These rules govern controlled substance and alcohol testing of licensees and applicants by the Idaho State Racing Commission. (3-20-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: (3-20-20)T

01. Alcohol. The intoxicating agent in beer, wine, or liquor, as the terms are defined in Title 23, Idaho Code, and includes ethyl, methyl, and isopropyl alcohols. (3-20-20)T

02. Applicant. Any person who has applied to the Racing Commission for a license. (3-20-20)T

03. Controlled Substance. A drug, substance, or immediate precursor listed in schedules I through V of Article II of Title 37, Chapter 27, Idaho Code. (3-20-20)T

04. Licensee. Any person who has been issued a license by the Racing Commission. (3-20-20)T

05. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-20)T

06. Racing Association. Any person licensed by the Racing Commission to conduct live horse races and pari-mutuel wagering. (3-20-20)T

07. Reasonable Suspicion. Behavior or pattern of behavior indicates that the licensee or applicant is under the influence of a controlled substance or alcohol. The basis of the suspicion may be a specific, contemporaneous event or conduct that has been observed over a period of time. (3-20-20)T

08. Suspension. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (3-20-20)T

09. Sample. A urine sample collected for the purpose of drug testing, or a blood, breath, or saliva sample collected for the purpose of alcohol testing. (3-20-20)T

011. -- 019. (RESERVED)

020. PRIMARY PURPOSE.
In order to protect the integrity of horse racing in the state of Idaho, to protect the health and welfare of licensees and applicants engaged in horse racing within the state of Idaho, to prevent exploitation of the public, licensees and applicants engaged in horse racing in the state of Idaho, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Idaho, the Racing Commission intends to regulate the use of any controlled substance and alcohol at all race meets licensed by it. (3-20-20)T

021. -- 049. (RESERVED)

050. USE OF CONTROLLED SUBSTANCES.
No licensee or applicant may have within their body any unauthorized controlled substance while within the enclosure of or on the premises managed by any racing association or the Racing Commission. (3-20-20)T

051. -- 059. (RESERVED)

060. CONSUMPTION OF ALCOHOL.
No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. (3-20-20)T

061. -- 099. (RESERVED)

100. TESTING.
The Board of Stewards, or the Racing Commission acting through the executive director, may require any licensee or applicant to provide blood, urine, or saliva samples for the purpose of drug or alcohol analysis under either of the following circumstances: (3-20-20)T

01. Random Testing. As part of a random testing program. (3-20-20)T

02. Reasonable Suspicion. When the Board of Stewards finds that there is reasonable suspicion to believe that the proposed testee has used any controlled substance. (3-20-20)T

101. -- 119. (RESERVED)

120. POST-ACCIDENT TESTING.
At its discretion the Board of Stewards may conduct post-accident controlled substance or alcohol testing of any licensee or applicant who is involved in a racing or job-related accident on the track or on racing association grounds that requires treatment away from the scene of the accident. (3-20-20)T

121. -- 129. (RESERVED)

130. REFUSAL TO TEST.

01. Refusal to Supply a Sample. When any licensee or applicant is requested to submit to a drug test in a manner prescribed in these rules, the person must do so in a prompt manner. Refusal to supply such sample will result in: (3-20-20)T

a. The immediate suspension of the licensee or applicant; and (3-20-20)T

b. A hearing before the Board of Stewards in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," Section 050. (3-20-20)T

02. Suspended from Racing for Refusal to Test. (3-20-20)T

a. If the Board of Stewards finds at the hearing that said refusal to test occurred, the licensee or applicant will be suspended from racing for seven (7) calendar days and be subject to random testing for one (1) year. (3-20-20)T

b. In the event of a finding of just cause the licensee or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated. (3-20-20)T

03. Subject to Random Testing. In the event a licensee or applicant refuses to test when requested after previously refusing to test or previously testing positive for drugs, that licensee or applicant will be suspended from racing for a period of ninety (90) calendar days and subject to random testing for a period of one (1) year. (3-20-20)T

131. -- 149. (RESERVED)

150. TESTING PROCEDURE.

01. Accordance with Established Procedures. Testing must be done in accordance with established medical and law enforcement procedures in the state of Idaho. (3-20-20)T

02. Retesting. The sample may be retested at the request of the licensee or applicant at either the laboratory used by the Racing Commission or a separate laboratory selected from a list provided by the Racing Commission. The licensee or applicant is responsible for all costs associated with the retesting of the sample. (3-20-20)T

151. -- 199. (RESERVED)

200. A POSITIVE TEST.
On receiving written notice from the approved laboratory that a sample has been found positive for a controlled substance, the Racing Commission will initiate the following procedure: (3-20-20)T

01. Notification. The Racing Commission, through the Executive Director, will notify the presiding Steward and forward the test results to the Board of Stewards. (3-20-20)T

02. Hearing Set. The Board of Stewards will set a hearing in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," within the next two (2) racing days or seven (7) calendar days, whichever is less, after they receive notice of a positive test from the Executive Director. (3-20-20)T

03. Written Notice. (3-20-20)T

a. Notice of Hearing. Written notice of the hearing must be given to the licensee or applicant as soon as the hearing date is set. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the Board of Stewards agree. (3-20-20)T

b. Service of Notice. Service must be to the licensee or applicant personally by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service is deemed completed on the third day after mailing. (3-20-20)T

04. Opportunity for Explanation. The hearing will conducted before the Board of Stewards pursuant to IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals." At the hearing, the licensee or applicant will be provided an opportunity to present evidence and explain the positive test. (3-20-20)T

05. Confidentiality. The Board of Steward's hearing must be closed and the facts therein will be kept confidential, unless for use with respect to any subsequent contested hearing or order by the Racing Commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. (3-20-20)T

06. Lacking Satisfactory Explanation. Lacking a satisfactory explanation and documentation or upon the licensee or applicant agreeing with the test results, the Board of Stewards will suspend the licensee or applicant in accordance with Section 220 of these rules. (3-20-20)T

201. -- 219. (RESERVED)

220. PROCEDURES FOLLOWING A POSITIVE CHEMICAL ANALYSIS.

01. First Positive Test. For a licensee's or applicant's first positive drug test he will not be allowed to participate in racing for seven (7) calendar days and until such time as he has received a substance abuse evaluation and has begun the recommended rehabilitation program. Additionally, the licensee or applicant will be subject to random testing for a period of one (1) year from the date the positive sample was taken. (3-20-20)T

02. After Evaluation. After such evaluation, but not before the tolling of the seven (7) calendar days awarded in Subsection 220.01 of these rules, if said licensee's or applicant's condition proves non-addictive and not detrimental to the best interest of racing, said licensee or applicant will be allowed to participate in racing provided he can produce a negative test result from a laboratory approved by the Racing Commission and agrees to further testing at the discretion of the Stewards or designated Racing Commission representative to ensure his unimpairment. (3-20-20)T

03. Second Violation. For a licensee's or applicant's second violation, he will be suspended for ninety (90) consecutive days and until he provides the Stewards with documentation that he has enrolled and is progressing satisfactorily in a certified drug rehabilitation program approved by the Racing Commission. (3-20-20)T

04. Third Violation. For a licensee's or applicant's third violation, he will be suspended and the case referred to the Racing Commission for consideration of revocation of the individual's license. (3-20-20)T

221. -- 249. (RESERVED)

250. CONFIDENTIALITY OF TEST RESULTS.
All test results are obtained as part of an inquiry into a person's fitness to be granted or to retain a license and are exempt from public disclosure pursuant to Section 9-304C, Idaho Code. A statistical summary will be made available annually. (3-20-20)T

251. -- 299. (RESERVED)

300. TESTING EXPENSE.
Except for retesting requested by a licensee or applicant, all testing ordered pursuant to these rules, whether blood, urine, or breath, will be at the expense of the Racing Commission. All expense of drug or alcohol evaluation, treatment, reports, and fees will be at the expense of the licensee or applicant undergoing such evaluation or treatment. (3-20-20)T

301. -- 999. (RESERVED)

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