



ADMINISTRATIVE RULES OF MONTANA



8.22.3303 ALCOHOL AND DRUG TESTING

- (1) No licensee of any entity associated with the conduct of racing while on the grounds of a licensed race track or simulcast facility shall have present within the licensee's system any amount of alcohol which would constitute legal impairment or intoxication.
- (2) A designated board of horse racing representative may direct any such licensee or employee to submit to a breathalyzer test. Such licensee or employee shall, when so directed, submit to such examination. If the results thereof show a reading of .05 percent alcohol content or more, such licensee or employee shall not be permitted to continue his/her duties for that day. Such licensee or employee shall then be subject to fine or suspension by the stewards or board of horse racing.
- (3) For a subsequent alcohol related violation such licensee shall be subject to procedures outlined in (18) .
- (4) No licensee of any entity associated with the conduct of racing while on the grounds of a licensed race track or simulcast facility shall have within the licensee's system any controlled substance as listed in the U.S. Code, Title 21 (Food and Drug Laws) or any prescription drug unless such prescription drug was obtained directly or pursuant to valid prescription or order from a licensed physician.
 - (a) Jockeys shall be required to furnish urine or blood samples as part of their pre-licensing medical examination for drug screening purposes.
 - (b) Refusal to submit to the test, or test results reporting a presence of illegal drugs or narcotics, or the use of non-prescription drugs shall be grounds for refusal to license the applicant. Any use or possession of illegal drugs that constitutes a felony shall preclude any further consideration of the license application.
 - (c) Licensees found to be involved in the illegal sale, manufacture or distribution of any narcotic/drug will be subject to license disciplinary action.
 - (d) Licensees demonstrating addiction to any narcotic/drug will be subject to license disciplinary action.
 - (e) Any improper use of any narcotic/drug by a licensee after licensing will be grounds for license disciplinary action.
- (5) Current licensees will be required to submit to tests for alcohol, drug or narcotic usage as outlined below:
 - (a) A steward may order a drug test when, after consultation with another steward or board representative, both concur that there is documentation that a licensee:

- (i) is impaired or incapable of performing his/her assigned duties; or
 - (ii) has high absenteeism, or other behavior inconsistent with previous performance.
- (b) The contents of the documentation shall be made available to the licensee.
- (6) Licensees may be ordered by a steward to submit to a drug test:
 - (a) when the allegation involves the use, possession or sale of drugs or narcotics; or
 - (b) when the allegation involves the actual use of force; or
 - (c) when there is serious on-duty injury to the licensee or another person; or
 - (d) if two or more representatives of the jockeys at any race track advise the stewards at the track that they believe a jockey, who is scheduled to ride, is under the influence of drugs and/or alcohol, the stewards or their agents have probable cause for conducting such drug and/or alcohol tests on such jockeys as they deem appropriate.
- (7) A steward who orders a drug test when there is a reasonable objective basis for suspecting usage shall forward a report containing the facts and circumstances directly to the board.
- (8) Test results reporting a presence of illegal drugs or narcotics, or the use of prescription, or the abuse of any over-the-counter drug, will be provided to the stewards by the board.
- (9) The licensee designated to give a sample must be positively identified prior to any sample being obtained.
 - (a) The room where the sample is obtained must be private and secure. An observer of the appropriate sex shall be present for direct observation to ensure the sample is from the employee and was actually passed at the time noted on the record. Specimen collection should not demean, embarrass, or cause physical discomfort to the licensee.
 - (b) An interview shall be conducted with the licensee prior to the test to establish use of drugs currently taken under medical supervision.
 - (c) Specimen samples must be sealed, labeled and checked against the identity of the licensee to ensure that the results match the testee. Samples shall be sorted in a secured and refrigerated atmosphere until tested or delivered to the testing lab representative.
- (10) Licensees who have been subjected to drug tests and shown to be drug free, shall receive a letter stating that no illegal drugs were found. If the licensee requests, a copy of the letter will be placed in the licensee's personal file.
- (11) Licensees shall not take any narcotics or dangerous substance unless prescribed by a person licensed to practice medicine. Licensees shall submit, when requested by a steward, a doctor's statement attesting to their ability or inability to competently perform their work functions while under the influence of the prescriptive drugs.
- (12) Members of the board and its designated representatives shall have the authority to full and complete entry on and to any and all parts of the grounds and mutuel plants of any licensee. Licensees who have a reasonable basis to believe that another licensee is illegally using drugs or narcotics shall report such facts and circumstances immediately to the state steward of the live race meet or the simulcast director of the simulcast facility. Any licensee who refuses to take the required drug test or to follow this rule is subject to be immediately relieved from duties pending administrative review.

- (13) Acting with reasonable cause, the stewards or a designated board of horse racing representative may direct any such licensee or employee to deliver a specimen of urine in the presence of the state steward or state security or other properly trained, duly licensed officials as designated by the board or subject himself/herself to the taking of a blood sample or sample of other body fluids by a duly licensed physician as designated by the board of horse racing.
- (14) In such cases the stewards or the board of horse racing representative may prohibit such licensee or employee

from participating in that day's racing or simulcast activities or other racing or simulcast activities until such time as said licensee or employee evidences a negative test result.

- (15) Sufficient sample shall be collected to insure a quantity for a split sample when possible.
- (16) Refusal by such licensee or employee to provide the samples herein described, as so directed, shall be in violation of these rules and shall subject such licensee or employee to sanctions by the stewards or the board of horse racing.
- (17) All random testing shall be at the expense of the board of horse racing and the racing association on a 50-50 basis. All scheduled testing, done under board order or other court or drug counselor order shall be at the expense of the person being tested.
- (18) First time violators shall not be allowed to participate in racing until such time as their condition has been professionally evaluated and a professional written opinion is received stating that they can function safely without risk to the public and without detriment to the best interests of racing.
 - (a) After such evaluation, if said licensee's or employee's condition proves non-addictive and not detrimental to the best interest of racing, said licensee or employee shall be allowed to participate in racing provided he/she can produce a negative test result and agrees to further testing at the discretion of the stewards or designated representative of the board to insure his/her continued unimpairment.
 - (b) After such professional evaluation, should said licensee's or employee's condition demonstrate addiction or a condition detrimental to the best interest of racing, said licensee or employee shall not be allowed to participate in racing until such time as he/she can produce a negative test result and show documented evidence that he/she has successfully completed a certified alcohol/drug rehabilitation program approved by the board of horse racing. Said licensee or employee must agree to further testing at the discretion of the stewards or designated representative of the board to insure his/her unimpairment.
 - (c) If this is the second offense, the jockey shall not be permitted to ride again for six months, and until he/she presents the stewards with a statement that he or she has satisfied the requirements of an appropriate rehabilitation program, with a negative test result and with an agreement to further testing at the discretion of the stewards; and
 - (d) If this is the third offense, such jockey's license shall be revoked.

Authorizing statute(s): 23-4-104, MCA

Implementing statute(s): 23-4-104, 23-4-202, 23-4-301, MCA

History: NEW, 1987 MAR p. 100, Eff. 1/30/87; AMD, 1990 MAR p. 1891, Eff. 10/12/90; TRANS & AMD, from Dept. of Commerce, 2002 MAR p. 1500, Eff. 5/17/02; TRANS, from 32.28.1503, 2015 MAR p. 2252, Eff. 12/25/15.