

**Ontario
Racing
Commission**

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December 14, 2007

THOROUGHBRED DIRECTIVE NUMBER 6 – 2007 RULES OF THOROUGHBRED RACING 2005

The Ontario Racing Commission at its meeting of Friday, December 14, 2007, resolved that the Rules of Thoroughbred Racing 2005 be amended by the promulgation of the following Rules, effective January 1, 2008.

Chapter 6 VIOLATIONS, FINES, SUSPENSIONS & EXPULSIONS

15.24 Deleted
15.24.01 Deleted
15.24.02 Deleted
15.24.03 Deleted
15.24.05 Deleted

15.26.01 Deleted
15.26.02 Deleted
15.26.03 Deleted
15.26.04 Deleted
15.26.05 Deleted

Chapter 38 ALCOHOL AND DRUG OFFENCES - HUMAN

38.01 All Designated Racing Officials and individuals who hold a safety sensitive position are subject to the following Alcohol & Drug Rules.

38.02 Designated Licensees are prohibited from the following:

- a) the use, possession, distribution, manufacture, offering or sale of illicit drugs or illicit drug paraphernalia;
- b) reporting for work under the influence of illicit drugs;
- c) the presence in the body of illicit drugs or unprescribed drugs for which a prescription is legally required in Canada, as determined through the testing program.

38.03 Designated Licensees are prohibited from the following:

- a) reporting for work under the influence of alcohol from any source;
- b) the use of alcohol within the first eight hours after an accident or until tested or advised by the ORC representative that a test is not required.

38.04 Designated Licensees are prohibited from the following:

- a) the intentional misuse of medications including using medication not as prescribed, using someone else's prescription medication, combining medication and alcohol use against direction; and
- b) the unauthorized possession of prescribed medications without a legally obtained prescription, and unauthorized distribution, offering or sale of prescription medications (trafficking).

The onus rests with Designated Licensees to investigate (through their doctor or pharmacist) whether a medication can affect safe operation and take appropriate action to minimize safety risk.

38.05 Designated Licensees called in unexpectedly and requested to perform unscheduled duties associated with the business of racing while under the influence of alcohol, drugs or medications that could impact safety and/or breach the Alcohol and Drug Rules shall decline the request.

38.06 ORC Representatives may conduct unannounced searches where there are reasonable grounds to believe a prohibited substance is present on ORC licensed premises in violation of the Rules of Racing or specific track rules. Prohibited substances include illicit drugs and prescribed medications possessed without a legally obtained prescription as set out in Rule 38.02.

38.07 Designated Licensees are subject to testing in the following situations:**a) Reasonable Cause**

Designated Licensees are required to submit to testing on request whenever an ORC Representative has reasonable grounds to believe that the actions, appearance or conduct of a Designated Licensee are consistent with, or indicative of the use of drugs or alcohol, or where the Designated Licensees have been involved in an incident or accident and the ORC Representative has reasonable grounds to believe that alcohol or drug use may have been a contributing factor. The decision to test shall be made by an ORC Representative.

b) Post Incident/Accident

Designated Licensees may be subject to alcohol and drug testing after a significant accident, incident or near miss that occurs at an ORC licensed facility as part of a full investigation into the circumstances. The decision to refer an individual or a group of individuals for a test will be made by the ORC Representative investigating the incident.

c) Unannounced Drug Testing

Designated Licensees are subject to drug testing which will take place on an unannounced basis throughout the racing season. Selection for testing will be handled through an independent selection system managed by the ORC's Program Administrator.

d) Required Alcohol Testing

All Designated Licensees are subject to alcohol testing at any time that they are engaged in the business of racing at a licensed facility.

e) Return to Duty – Post Violation

Following a violation resulting in a suspension, Designated Licensees will be required to pass a return to duty alcohol and drug test and will be subject to unannounced testing as a condition of continued licensing as set out in an agreement with the ORC and the provisions of 38.08 (e).

f) Return to Duty - Post Treatment

Following a violation resulting in a Designated Licensee completing primary treatment for an alcohol or drug problem, Designated Licensees may be subject to testing as a monitoring tool as determined on a case by case basis to support the Designated Licensee's recovery.

g) Failure to Test

Any Designated Licensee who fails to report directly for a test, refuses to submit to a test, refuses to agree to disclosure of a test result to the Program Administrator, or whose test results in a report from the Medical Review Officer stating that the sample has been adulterated or tampered with, commits a violation of the Alcohol and Drug Rules with consequences set out in 38.08 (d).

38.08 The penalties for Designated Licensees are as follows:

a) Alcohol: Test Result of .02 to .039 BAC

- i. for a first offence, suspension from performing the duty or duties for which he/she is licensed for that day, a \$100 fine and reminder of the policy requirements and suggested referral for assistance;
- ii. for a second offence, suspension from performing the duty or duties for which he/she is licensed for that day, a \$300 fine and suspension of 5 days if committed within 12 months of the first offence, and the licensee may be referred to a Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program; and
- iii. Any subsequent offence within 12 months of the second offence shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the Commission.

b) Alcohol: Test result of .04 to .079 BAC

- i. for a first offence, suspension from performing the duty or duties for which he/she is licensed for that day, a \$300 fine, a suspension for five (5) days, a reminder of the policy requirements and a suggested referral for assistance;
- ii. for a second offence, suspension from performing the duty or duties for which he/she is licensed for that day, a fine of \$500 and a suspension of fifteen (15) days if committed within 12 months of the first offence, referral to a Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program if they choose to return to duties with the ORC, and compliance with return to work conditions set out in an agreement with the individual;
- iii. any subsequent offence within 12 months of the second offence shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the Commission.

c) Illicit Drugs or Alcohol test result of .08 BAC or higher

- i. for a first offence, suspension from performing the duty or duties for which he/she is licensed for that day, a \$500 fine, a suspension of fifteen (15) days, referral to a

Substance Abuse Professional (SAP) for evaluation to determine the need for a structured assistance program if they choose to return to duties with the ORC, and compliance with return to work conditions set out in an agreement with the individual;

- ii. any subsequent offence within 12 months of the first offence shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the Commission.

d) **Refusal to Test Situation** (including adulterating/tampering with the sample)

A first offence shall result in suspension from performing the duty or duties for which they are licensed and they shall be referred to the Commission.

e) **Subsequent Offence Situation**

The penalty for a second offence will be administered in accordance with the specific penalties for that second offence category.

f) **Post Violation Agreements**

Specific conditions will be set out by agreement with the Designated Licensee which will include, at a minimum the following:

- i. full cooperation with the Substance Abuse Professional (SAP) assessment process;
- ii. adherence to any recommended treatment, monitoring, and aftercare program;
- iii. maintenance of sobriety on return to duty;
- iv. successful completion of a return to duty alcohol and drug test;
- v. ongoing unannounced testing for a period set out in the agreement; and
- vi. no further violations of the policy.

Although the ORC will direct individuals who test positive to qualified services, the cost of these services is not covered by the ORC. All costs associated with assessment, treatment and aftercare, will be at the expense of the individual.

g) **Referral to the Commission**

Designated Licensees who have been suspended from performing the duties for which they are licensed and who are referred to the Commission:

- i. must provide proof that they have a negative result before applying for a hearing to be reinstated;
- ii. will be referred to a Hearing before the Commission within fifteen (15) days of the request for reinstatement;
- iii. will have a continued suspension from all licensed activities, duties and responsibilities and barred from attendance at all ORC licensed Racetracks pending final disposition by the ORC.

This Hearing is for the sole purpose of determining the future status of the licensee, which may include a lifetime ban from the sport, and industry of racing, or other specific conditions.

38.09 The Director has the authority and discretion to indefinitely suspend any Designated Licensee who:

- a) tests .02 BAC or greater;
- b) has been tested in a reasonable cause or post incident situation pending the results of the test;

c) has refused to complete the testing process as directed by the ORC Representative.

38.10 The following definitions form part of the Alcohol and Drug Rules:

BAC means Blood Alcohol Content.

Designated Licensee means all Designated Racing Officials and individuals who hold a safety-sensitive position.

Designated Racing Officials means all employees and other individuals who have responsibility for decision making and the safe operations of all events at ORC licensed facilities. The following positions are included:

Standardbred – judges, paddock judge

Thoroughbred – stewards, paddock judge, clerk of the scales, assistant clerk of the scales, placing judge, horse ambulance driver and course marshal

Quarter Horse – stewards, paddock judge, clerk of the scales, horse ambulance driver and course marshal.

Drug means any substance, including alcohol, illicit drugs or medications, the use of which has the potential to adversely affect the way a person thinks, feels or acts. Drugs of concern are those that inhibit a person's ability to perform his or her job safely and productively, including the following:

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl;

Beverage Alcohol refers to beer, wine and distilled spirits;

Illicit Drug means any drug or substance which is not legally obtainable and whose use, sale, possession, purchase or transfer is restricted or prohibited by law; and

Medication refers to a drug obtained legally, either over-the-counter or through a doctor's prescription.

Fit for Work means being able to safely and effectively perform assigned duties without any limitations due to the use or after-effects of alcohol, illicit drugs, medications or other substances that can impact performance.

Medical Review Officer means a licensed physician responsible for receiving laboratory results generated by an agency's drug testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information.

ORC Representative means an employee(s) or agent of the Ontario Racing Commission delegated the duties as required by the Director.

Safety Sensitive Position means a position in which individuals have a key and direct role in the handling of horse such that performance impacted by alcohol or other drug use could result in:

- An incident affecting the health or safety of employees, licensees, patrons, horses, or the public, or
- An inadequate response or failure to respond to an emergency or operational situation.

This category includes any and all individuals required to temporarily relieve in a safety-sensitive position. The following positions are included:

Standardbred:	driver, trainer, groom, starting gate personnel, horse identifier, commission and official veterinarian, outrider and blacksmith, test inspector, TCO ₂ technician
Thoroughbred	apprentice jockey, exercise person, jockey, pony person, starting gate personnel, horse identifier, commission and official veterinarian, jockey valet, trainer, groom, hot walker and blacksmith, test inspector, TCO ₂ technician
Quarter Horse	apprentice jockey, exercise person, jockey, pony person, starting gate personnel, horse identifier, commission and official veterinarian, jockey valet, trainer, groom, hot walker and blacksmith, test inspector, TCO ₂ technician.

Substance Abuse Professional means an individual with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug related disorders; the SAP will assess if the individual has a problem, make recommendations regarding education and treatment, and recommend a return-to-duty monitoring program including unannounced testing.

38.11 Whether breath analysis testing equipment is or is not available, and if due to alcohol or drug impairment, a person is unfit to drive, or carry out his or her duties, or whose conduct may reflect adversely on the sport, he/she shall forthwith be suspended for the remainder of that day and may be subject to a further suspension and fine as the judges or other officials see fit.

38.12 Any official who fails to report a participant, whom he/she might reasonably determine to have been consuming alcoholic beverages or drugs, to the judges shall be guilty of violation and shall be fined or suspended, or both.

BY ORDER OF THE COMMISSION

Original Signed

John L. Blakney
Executive Director