

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

017 MAINE STATE HARNESS RACING COMMISSION

Chapter 17: RULE VIOLATIONS; PENALTIES

SUMMARY: This chapter contains the penalty provisions for violations of Commission statutes and rules.

Section 1. General Provisions

Whenever the penalty of suspension is prescribed in these rules, it shall be construed to mean an expulsion from the time of receipt of written notice of suspension from any participation either directly or indirectly, in the privileges and uses of the course and grounds of an Association during the progress of a race meeting, unless otherwise specifically limited when such suspension is imposed, such as a suspension from driving. If two penalties in these rules apply to the same offense, the stricter of the penalties shall prevail.

When a violation of the rules has affected or may affect the outcome of a race, all winnings of the horse involved in the violation shall be forfeited and redistributed among the remaining horses in the race entitled to the winnings. No forfeiture and redistribution of winnings under this section shall affect the distribution of the pari-mutuel pools, when distribution of pools is made upon the official placing at the conclusion of the race.

Any racing official, licensee or other participant found in violation of a Commission rule for which no penalty is specified in Sections 4 or 5 of this chapter, may be subject to a fine not to exceed \$1,000 and/or a one year suspension.

A violation of any of the Commission rules by a corporate licensee may also subject the Officers of the corporation to a fine and/or suspension as provided for by this chapter.

Section 2. Licensing and License Renewals

1. The Commission may refuse to issue a license or to renew any and all of a person's licenses in any of the following circumstances:
 - A. When these rules or the statute provide for a lifetime suspension of the person or otherwise provide for revocation;
 - B. When a person has been convicted or otherwise judged guilty of a crime in Maine or in another jurisdiction; or
 - C. When a person has displayed conduct found by the Commission to pose a significant threat to harness racing in Maine by threatening:
 - (1) the confidence of the wagering public;

- (2) the integrity of pari-mutuel pools;
- (3) the health and welfare of spectators and/or participating owners, trainers, drivers, grooms and others involved in harness racing; or
- (4) the health and welfare of Standardbred horses.

Section 3. Attempt

Any attempt to violate any of the rules falling short of actual accomplishment shall constitute an offense, and may be punishable as herein above provided.

Section 4. Penalty Schedule

1. Level 1 violations

VIOLATION	LEVEL	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. Assault on another person	1	\$1,000.00	1 year
2. Inconsistent drive to perpetrate or to aid a fraud	1	\$1,000.00	1 year
3. Conduct detrimental to racing	1	\$1,000.00	1 year
4. Knowingly failing to take horse for a test	1	\$1,000.00	1 year
5. Have in your possession within the grounds of race track any drug, hypodermic needles or supplies for administering medications or drugs in violation of chapter 11	1	\$1,000.00	1 year
6. Accepting or allowing a non-cash payment for a pari-mutuel wager	1	\$1,000.00	1 year
7. Any act of cruelty to a horse	1	\$1,000.00	1 year
8. The use of any goading device	1	\$1,000.00	1 year

2. **Level 2 violations**

VIOLATION	LEVEL	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. Altering a horse's hobbles without permission	2	\$500.00	6 months
2. Any act of helping another person in a race	2	\$500.00	6 months
3. Driving in a careless and reckless manner	2	\$500.00	6 months
4. Excessive or indiscriminate use of the whip	2	\$500.00	6 months
5. Leaving paddock after it has closed	2	\$500.00	6 months
6. Let a horse pass inside needlessly	2	\$500.00	6 months
7. Violating any part of the claiming rule	2	\$500.00	6 months
8. Whipping horse under the arch	2	\$500.00	6 months
9. Welting a horse	2	\$500.00	6 months

3. **Level 3 violations** (Not intended to be all inclusive). A minimum fine of \$100.00 and/or a minimum suspension of 3 days or both.

VIOLATION	LEVEL	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. Carry a horse out or sit down in front of him	3	\$250.00	90 days
2. Causing another horse to break	3	\$250.00	90 days
3. Changing course in the homestretch or swerving in or out	3	\$250.00	90 days
4. Crossing over in front of a horse or a field of horses in a reckless manner	3	\$250.00	90 days
5. Crowd a horse or put a wheel under him	3	\$250.00	90 days
6. Failure to obey the instructions of the racing official	3	\$250.00	90 days
7. Failure to obey the judge's or steward's orders	3	\$250.00	90 days
8. Failure to set and maintain pace comparable to class	3	\$250.00	90 days
9. Inconsistent drive due to carelessness or lack of effort	3	\$250.00	90 days
10. Indulge in shouting or any other improper conduct	3	\$250.00	90 days
11. Interference causing another horse not to finish	3	\$250.00	90 days
12. Laying off a normal pace, leaving a hole	3	\$250.00	90 days
13. Slow down a field of horses	3	\$250.00	90 days
14. Using threatening language to a racing official	3	\$250.00	90 days
15. Foot out of stirrup with intent	3	\$250.00	90 days
16. Failure to pass the breath analyzer test	3	\$250.00	90 days

4. **Level 4 violations** (Not intended to be all inclusive). A minimum fine of \$100.00 and/or a minimum suspension of 3 days or both.

VIOLATION	LEVEL	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. After being called for a race, leaving the track without permission	4	\$200.00	30 days
2. Coming to the gate out of position	4	\$200.00	30 days
3. Crossing over before reaching the starting point	4	\$200.00	30 days
4. Delaying the start	4	\$200.00	30 days
5. Drawing a horse from race without permission	4	\$200.00	30 days
6. Failure to adhere to the breaking rule	4	\$200.00	30 days
7. Failure to come into position	4	\$200.00	30 days
8. Failure to have horse in paddock by prescribed time	4	\$200.00	30 days
9. Impeding the progress of a horse	4	\$200.00	30 days
10. Interference	4	\$200.00	30 days
11. Interfering with another driver during the start	4	\$200.00	30 days
12. Leaving the course	4	\$200.00	30 days
13. Participating without a license	4	\$200.00	30 days
14. Rushing ahead of the gate	4	\$200.00	30 days
15. Using offensive or profane language	4	\$200.00	30 days
16. Chapter 7, Section 54.S	4	\$200.00	30 days

5. **Level 5 violations** (Not intended to be all inclusive). A minimum fine of \$50.00 and/or a minimum suspension of 3 days or both.

VIOLATION	LEVEL	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. Appearing on the track without proper colors and white pants	5	\$100.00	10 days
2. Chin strap not in place and fastened	5	\$100.00	10 days
3. Drivers arriving late for paddock	5	\$100.00	10 days
4. Failure to drive when programmed	5	\$100.00	10 days
5. Failure to keep feet in stirrups	5	\$100.00	10 days
6. Failure to name proper driver/late driver change	5	\$100.00	10 days
7. Failure to participate in post parade	5	\$100.00	10 days
8. Failure to take breathalyzer test by prescribed time	5	\$100.00	10 days
9. Failure to use mud fenders when prescribed	5	\$100.00	10 days
10. Riding a passenger on the sulky	5	\$100.00	10 days
11. Smoking in colors while on race track	5	\$100.00	10 days
12. Using non-prescribed wheel discs	5	\$100.00	10 days

6. **Unclassified violations** (Not intended to be all inclusive)

VIOLATION	FINE NOT TO EXCEED	SUSPENSION NOT TO EXCEED
1. Failure to pay fines or purse redistributions	No fine	Suspension until all fines or purse redistributions are paid
2. Positive test on a horse	See Chapter 17 Section 6	See Chapter 17 Section 6

Section 5. Penalty Schedule for Violations of Chapter 11

The following guidelines shall be used to establish minimum and maximum penalties for violation of the prohibited substance rule. For the purposes of prohibited substance penalty classes, multiple positive tests shall be treated as a 1st, 2nd, 3rd, etc. offenses based on other positives within the same penalty class. However, the Commission may consider the overall pattern and history of prohibited substance violations by a licensee in determining the appropriate penalty within a range. Penalty enhancements based on a history of prohibited substance violations may be levied consistent with Section 6.

Class “A” Penalty- The following are recommended penalties for violations due to the presence of a drug carrying a Class “A” penalty and for violations of Prohibited Practices:

LICENSED TRAINER		
1ST Offense	2nd Lifetime Offense	3rd Lifetime Offense
-Minimum one-year suspension, not to exceed a three year suspension. AND -Minimum fine of \$1,000, not to exceed \$2,500.	-Minimum three-year suspension, not to exceed a 5 year suspension. AND -Minimum fine of \$2,500, not to exceed \$5,000.	-Minimum five-year suspension, not to exceed a 7 year suspension. AND -Minimum fine of \$5,000, not to exceed \$10,000.
LICENSED OWNER		
1st Offense	2nd Lifetime Offense in owner’s stable	3rd Lifetime Offense in owner’s stable
-Loss of Purse AND -Horse shall be disqualified and placed on the steward’s list for 45 days, and must pass a Commission approved examination to be eligible to be entered.	-Loss of Purse AND -Horse shall be disqualified and placed on the steward’s list for 60 days, and must pass a Commission approved examination to be eligible to be entered.	-Loss of Purse AND -Horse shall be disqualified and placed on the steward’s list for 90 days and must pass a Commission-approved examination before becoming eligible to be entered.

Class “B” Penalty-The following are recommended penalties for violations due to the presence of a drug carrying Class “B” penalty or for the presence of more than one NSAID in a plasma/serum sample, subject to the provisions set forth in Chapter 11 and for violations of the established levels for carbon dioxide.

LICENSED TRAINER		
1ST Offense	2nd Offense (365 day period)	3rd Offense (365 day period)
-Minimum 15- day suspension. Not to exceed a 60 day suspension.	-Minimum 30-day suspension. Not to exceed a 180 day suspension.	-Minimum 60-day suspension. Not to exceed 365 day suspension.
AND	AND	AND
-Minimum fine of \$500, not to exceed \$1,000.	-Minimum fine of \$1,000, not to exceed \$2,500.	-Minimum fine of \$2,500, not to exceed \$5,000.
LICENSED OWNER		
1st Offense	2nd Offense in owner’s stable (365 day period)	3rd Offense in owner’s stable (365 day period)
-Loss of Purse	-Loss of Purse	-Loss of Purse
AND	AND	AND
-Horse shall be disqualified for 30 days and must pass a Commission approved examination before becoming eligible to be entered.	- Horse shall be disqualified for 30 days and must pass a Commission approved examination before becoming eligible to be entered.	-Horse shall be disqualified, placed on the steward’s list for 45 days and must pass a Commission approved examination before becoming eligible to be entered.

Class “C” Penalty-The following are recommended penalties for violations due to the presence of a drug carrying a Class “C” penalty; overages for permitted NSAIDs; and the presence of more than one NSAID in a plasma/serum sample.

LICENSED TRAINER	Phenylbutazone (>5.0-8.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen(>2-50 ng/ml)	Phenylbutazone (>8.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) Class C Violations
1 st Offense (365 day period)	-Minimum penalty of a written warning to a maximum fine of \$250.00	-Minimum penalty of \$500
2 nd Offense (365 day period)	-Minimum penalty of a written warning to a maximum fine of \$500.00	-Minimum penalty of \$1,000 and 15-day suspension
3 rd Offense (365 day period)	-Minimum penalty of \$500 to a maximum fine of \$1,000	-Minimum penalty of \$2,500 and 30-day suspension
LICENSED OWNER	Phenylbutazone (>5.0-8.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen (>2-50-ng/ml)	Phenylbutazone (>8.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) Class C Violations
1 st Offense (365 day period)	-Minimum penalty of a written warning	-Loss of Purse
2 nd Offense (365 day period)	-Minimum penalty of a written warning	-Loss of Purse
3 rd Offense (365 day period)	-Loss of Purse	-Loss of Purse. If same horse, placed on the steward’s list for 45 days.

Class “D” Penalty- The recommended penalty for a violation involving a drug that carries a Class D penalty is a written warning to the trainer and owner. Multiple violation may result in fines and/or suspensions.

Section 6. Multiple Medication Violations (MMV)

1. A trainer who receives a penalty for a medication or prohibited substance violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-C, as provided in the most recent version of the Association of Racing Commissioners International (ARCI) Uniform Classification Guidelines for Foreign Substances shall be assigned points as follows.

Penalty Class	Points If Controlled Therapeutic Substance	Points If Non-Controlled Substance
Class A	N/A	6
Class B	2	4
Class C	½ for first violation with an additional ½ point for each additional violation within 365 days	1 for first violation with an additional ½ point for each additional violation within 365 days
Class D	0	0

If the Commission determines that the violation is due to environmental contamination, it may assign fewer or no points against the trainer based upon the specific facts of the case.

2. The Commission shall assign and record points consistent with Section 6 (1). Points assigned by Commission rulings shall reflect, in the case of multiple positive tests as described in paragraph (3), whether they constitute a single violation.
3. Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the Commission may, depending on circumstances, be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Commission may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.
4. The Commission shall consider all points for violations when determining whether mandatory enhancements provided in this section shall be imposed.
5. In addition the penalty for the underlying offense, the following enhancement shall be imposed upon a licensed trainer based upon the cumulative points contained in his/her record:

Points	Suspension in days
5-5.5	15 to 30
6-8.5	30 to 60
9-10.5	90-180
11 or more	180 to 360

MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

- A. Has had more than one medication violation for the relevant time period, and
 - B. Exceeds the permissible number of points.
6. The Commission shall consider the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The MMV is intended to be a separate and additional penalty for a pattern of violations.
 - A. The suspension periods as provided in Section 6(5) shall run consecutive to any suspension imposed for the underlying offense.
 - B. The Commission ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a Commission's review of the trainer's cumulative points and violation history, which may be considered an aggravating factor in a case.

- C. Points shall expire as follows:

Penalty Classification	Time to Expire
A	3 years
B	2 years
C	1 year

- D. In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

Section 7. Penalties Without a Hearing

In the event the Judges believe that a person has committed a rule violation other than a racing violation and has left the grounds and the Judges are unable to contact him/her and hold a hearing thereon, the Judges may make an investigation and send a detailed written report to the Commission, with a copy to the United States Trotting Association and the Judges may impose a suspension of up to 30 days without a hearing based upon the findings. No suspension may exceed 30 days without a hearing.

Section 8. Unfitness to participate.

Any person whose character and general fitness are such that continued participation in harness racing by that person is inconsistent with the public interest and the best interests of racing generally, shall be suspended for a period not to exceed one year.

Section 9. Improper Language

Any person acting as a Judge or an official who uses insulting language to an owner, driver, or other person, or who is guilty of other offensive conduct, shall be subject to suspension by the Commission.

Section 10. Frivolous Demands

Any person demanding the identification of a horse without cause or merely with the intent to embarrass another participant, shall be punished by suspension or expulsion.

Section 11. Judges' Decisions

Licensed participants of race meets shall abide by the Commission statutes and rules, and accept the Judges' decisions on any and all questions to which their authority extends, unless and until acted upon by appeal to the Commission.

Section 12. Fines

Licensed participants who have been fined or suspended under these rules shall remain suspended until the fine is paid in full, subject to the appeal process.

Section 13. Recording Penalties

Any person imposing a penalty on any other person or horse on the grounds of a track shall record that penalty in the Judges' Book and shall deliver written or printed notice thereof to the person penalized, mail notice immediately to the office of the United States Trotting Association and to the Maine State Harness Racing Commission.

Section 14. Penalty Extension

When the penalty is for a driving violation that does not exceed a period of 5 days, the driver shall complete the engagement of all horses programmed before the penalty becomes effective. Such driver may drive in a stake, a futurity, an early or late closing and feature races during a suspension of 5 days or fewer; however, the suspension will be extended one race day for each date he or she drives in such race.

Section 15. Not Allowed to Compete

No horse may compete while owned or controlled wholly or in part by a suspended, expelled, disqualified, or excluded person. No entry in any race shall be accepted for a horse owned wholly or in part, or trained by, a person whose spouse is under license suspension at the time of entry. However, if the person's spouse has a driver's license that has been suspended for a routine driving offense, the judges may accept entry of the horse.

An entry made by or for a person or of a horse suspended, expelled, or disqualified, shall be held liable for the entrance fee thus contracted without the right to compete unless the penalty is removed. A suspended, disqualified or excluded person who shall perform in a race shall be penalized. No person or horse may compete while under suspension, disqualified or excluded; however, a declaration may be filed for a person or horse under suspension, disqualified or excluded so long as the race will not be held until that suspension, disqualification or exclusion is terminated.

Section 16. Fraudulent Transfer

The transfer of ownership of a horse by any person or persons under suspension in order to circumvent a suspension or purse return, shall constitute a violation, unless approved by the Commission.

Section 17. Association Responsibility

Any Association knowingly and willfully allowing a suspended, disqualified or excluded person to participate, after the Association has received notice shall be, together with its officers, subject to suspension or expulsion for each offense.

Section 18. Use of Racing Facility

Any Association knowingly and willfully allowing the use of its grounds by an expelled or unconditionally suspended person or horse, together with its officers, shall be subject to suspension or expulsion.

Section 19. Notification

Whenever a person is excluded from a pari-mutuel track by the Association, the Commission and the United States Trotting Association shall be notified.

Section 20. Employment of Expelled Persons

An expelled, suspended, disqualified or excluded person cannot act as an officer of a track. An Association shall not, after notice from the Commission, employ or retain in its employ an expelled, suspended, disqualified or excluded person. Any track found violating this rule shall be subject to suspension.

Section 21. Penalties of Other Jurisdictions Enforced

All penalties imposed by any Racing Commission in any racing jurisdiction shall be recognized and enforced by this Commission unless application is made for a hearing before this Commission wherein the applicant must show cause as to why such penalty should not be enforced against him/her in this state.

STATUTORY AUTHORITY: 8 M.R.S.A. §§ 263-A, 268, 275-C, 279-A, 279-B, 281

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NON-SUBSTANTIVE CORRECTION:

July 24, 2013 -	agency name in title
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May 28, 2015 -	filing 2015-090
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