

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 50 – HUMAN SUBSTANCE ABUSE TESTING

325:50-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Controlled substance**" means any substance included in the five schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

"**Day**" means a 24-hour period ending at midnight.

~~"**Medication**" means any substance other than food intended to affect the structure or any function of the body of a human or a horse.~~

"**Month**" means a calendar month.

"**Occupation license**" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

~~"**Probable cause testing**" means a strategy for testing for controlled dangerous substances or alcohol, or any other drug, based on a Commission official's having good reason to believe that an Occupation Licensee who may affect the outcome of race results is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law. Such human substance abuse testing and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the U.S. Department of Health and Human Services.~~

"**Prima Facie evidence**" means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

"**Race**" means a contest between horses.

"**Race day**" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"**Random Testing**" means a strategy for testing for alcohol or controlled substances not based on a reasonable belief that an individual has drugs or alcohol in his/her system. The strategy assures all affected individuals have an equal probability of being selected for testing.

"**Reasonable Cause/Reasonable Suspicion Testing**" means a strategy for testing for alcohol or controlled substances based on an official having good reason to believe a licensee has alcohol or controlled substances in his/her system.

"**Restricted area**" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Substance**" means any kind of physical matter existing in a solid, liquid, or gaseous state or some combination thereof and includes any drugs or medications referred to under the provisions of the Oklahoma Horse Racing Act, Section 200 et seq. of Title 3A of the Oklahoma Statutes.

"**Substantial evidence**" means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

"**Week**" means a calendar week.

"**Year**" means a calendar year.

325:50-1-3. Use of controlled dangerous substance or prescription ~~drugs~~ substance

(a) No person holding an occupation license issued by the Commission shall be under the influence of any scheduled "controlled dangerous substance" or synthetic substance as defined in the Uniform Controlled Dangerous Substances Act, 63 O.S., §§ 2-101 through 2-606, or any other intoxicating substance within the enclosure of any racetrack under the control of the Commission.

(b) The fact that any person charged with a violation of this Section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this Section.

(c) No person holding an occupation license issued by the Commission shall have in his/her possession within the enclosure of any racetrack under the control of the Commission any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, 63 O.S., § 2-101 et seq.

325:50-1-3.1. Prohibited Licensee Activities/Substance Abuse Testing Procedures/Assessment/Treatment/ Penalties

(a) All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

(b) It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:

- (1) Is engaged in the illegal sale or distribution of alcohol or a controlled substance;
- (2) Possesses, without a valid prescription, a controlled substance;
- (3) Is intoxicated or under the influence of alcohol or a controlled substance;
- (4) Is addicted, having been determined to be so by a professional evaluation, to alcohol or other ~~drugs~~ substance and not engaged in an abstinence-based program of recovery acceptable to the Commission;
- (5) Has in his/her possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;

- (6) Refuses to submit to drug substance and/or alcohol testing, when notified that such testing is based on reasonable grounds that the person is using drugs substance or alcohol or is based on the licensee's acting as if in an impaired condition; or
- (7) Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug substance in any quantity measured by the testing instrument establishes the presence of the drug substance for purposes of this paragraph.
- (c) The fact that a person charged with a violation of this rule is or has been lawfully entitled to use a prescribed substance shall not constitute a defense against any charge of violating this rule.
- (d) At its discretion, the Commission may conduct drug substance and/or alcohol testing in order to ensure safety on the racetrack.
- (e) When conducted, drug substance and/or alcohol testing shall apply, equally, to all licensees who may affect the outcome of a race and are exercising the privileges of their license.
- (f) No notice need be given as to onset or cessation of drug substance and/or alcohol testing.
- (g) For licensees who are tested under the provisions in this chapter, and whose testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/Mass Spectrometry (GC/MS) procedures.
- (h) When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized for the licensee to obtain an independent analysis of the urine sample through the Commission designated laboratory.
- (i) The Commission shall provide for a secure chain of custody for the sample to be made available for drug substance and/or alcohol testing for the licensee.
- (j) All costs for the transportation and testing for the sample portion for the licensee shall be the financial responsibility as follows:
- (1) If the licensee is required by order/ruling by a Board of Stewards or OHRC to obtain testing prior to being eligible for license, all cost associated with drug substance and/or alcohol testing shall be paid by applicant.
 - (2) If the licensee is ordered to obtain a drug substance and/or alcohol test by an OHRC Representative, all cost associated with testing shall be paid by OHRC.
- (k) Payment shall be made prior to drug substance and/or alcohol testing.
- (l) Refusal to submit to a required drug substance and/or alcohol test will result in an immediate ~~sixty (60)~~ one hundred eighty (180) day suspension and require two (2) negative test results thirty (30) days apart prior to reinstatement. However, a licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the capacity to hold a license.
- (m) If there has been a violation, under (b) above, the following additional procedures will be followed:
- (1) The Stewards/Commission may, at its discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other

~~drugs~~ substance or the Stewards/Commission may act on the information at hand.

(2) Actions in the case of a first violation may include revocation of the license, suspension of the license for up to six (6) months, placing the violator on probation for up to ninety (90) days and/or ordering formal assessment and treatment.

(3) Actions in the case of a second violation may include revocation of the license, suspension of the license up to one (1) year and/or a professional assessment of the person may be ordered by the Stewards/Commission.

(4) Treatment or assessment, if ordered, must meet the conditions established in this rule.

(5) If a professional assessment indicates presence of a problem of alcohol or other ~~drug~~ substance abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one (1) year.

(6) If a professional assessment indicates presence of a treatable problem of alcohol or other ~~drug~~ substance abuse or dependence, the Stewards/Commission may order the licensee to undergo treatment as a condition of continuing licensure. ~~Such~~ The treatment will be through a program or by a practitioner, acceptable to the licensee and the Stewards/Commission. Required features of any program or practitioner acceptable to the Stewards/Commission will be:

(A) Accreditation or licensure by an appropriate government agency, if required by state statute;

(B) A minimum of one (1) year follow-up of formal treatment; and

(C) A formal contract indicating the elements of the treatment and follow up program that will be completed by the licensee and, upon completion, certified by the program administrator to the Stewards/Commission as completed. To effect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.

(7) When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the Stewards/Commission an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery.

(8) Persons being reinstated following a violation of these rules who have not successfully completed a rehabilitation program shall submit a negative ~~drug~~ substance and/or alcohol test prior to being licensed.

(9) Actions in the case of a third violation may include revocation of the license and the violator being deemed ineligible for licensure for up to five (5) years.

(10) Prior human substance abuse violation reflected on a person(s) racing records from any racing jurisdiction(s) recognized by the Commission, including Oklahoma, shall be counted as violations when determining appropriate penalties as set forth in this rule.