

TITLE 71 INDIANA HORSE RACING COMMISSION

Emergency Rule LSA Document #18 - ____ (E)

DIGEST

Amends 71 IAC 6-1-3 regarding the claiming procedure. Amends 71 IAC 8.5-11-4 regarding refusal or failure to be tested. Effective upon filing with the Publisher.

SECTION 1. 71 IAC 6-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-1-3 Claiming procedure
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 3. (a) A person desiring to claim a horse must have the required amount of money on deposit with the horsemen's bookkeeper at the time the completed claim form is deposited.

(b) The claimant shall provide all information required on the claim form provided by the association.

(c) The claim form shall be completed and signed by the claimant or his **or her** authorized agent prior to placing it and the necessary transfer fees in an envelope provided for this purpose by the association and approved by the commission. The claimant shall seal the envelope and identify on the outside the date, race number, and track name only.

(d) The envelope shall be delivered to the designated area or licensed delegate at least thirty (30) minutes before post time of the race from which the claim is being made. That person shall certify on the outside of the envelope the time it was received.

(e) The claim shall be examined by the judges or their designee prior to the start of the race. The association's designee shall be prepared to state whether sufficient funds are on deposit in the amount equivalent to the specified claiming price and any other required fees and taxes. The judges shall have a public announcement made and information scrolled on the simulcast video stating there has been a claim made or, in the case of multiple claims, the number of claims made on a horse during the post parade. The successful claimant will be announced after the completion of the race.

(f) The judges shall disallow any claim made on a form or in a manner which fails to comply with all requirements of this rule.

(g) Documentation supporting all claims for horses, whether successful or unsuccessful, shall include details of the method of payment either by way of:

- (1) a photostatic copy of the check presented;
- (2) written detailed information to include:
 - (A) the name of the claimant;
 - (B) the bank;
 - (C) the branch;

- (D) the account number; and
- (E) the drawer of any checks; or
- (3) details of any other method of payment.

This documentation is to be kept on file at race tracks for twelve (12) months and is to be produced to the commission for inspection at any time during the twelve (12) month period.

(h) When a claim has been submitted, it is irrevocable and is at the risk of the claimant.

(i) In the event more than one (1) claim is submitted for the same horse, the successful claimant shall be determined by lot by the judges or their designee, and all unsuccessful claims involved in the decision by lot shall, at that time, become null and void, notwithstanding any future disposition of such claim.

(j) Upon determining that a claim is valid, the judges shall notify the paddock judge of:

- (1) the name of the horse claimed;
- (2) the name of the claimant; and
- (3) the name of the person to whom the horse is to be delivered.

Also, the judges shall cause a public announcement to be made.

(k) Every horse entered in a claiming race shall race for the account of the owner who declared it in the event, but title to a claimed horse shall be vested in the successful claimant from the time the horse is deemed to have started, and the successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured during or after the race. A horse entered in a claiming race cannot be sold or transferred until the completion of the race.

(l) A horse entered in a claiming race cannot be scratched from a claiming race for the purpose of being sold privately.

(m) A post-race test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race sample is collected. The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation. The successful claimant/trainer shall have the right to measure the horse's hobbles and any other equipment that he **or she** deems necessary before the horse leaves the test barn. The claimant or ~~his/her~~ **his or her** authorized designee shall be permitted access into the test barn. The equipment must remain on the claimed horse until the claimant or ~~his/her~~ **his or her** designee has an opportunity to measure hobbles or any other equipment he **or she** deems necessary.

(n) Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended, together with the horse, until delivery is made.

(o) A claimed horse shall not:

- (1) be eligible to start in any race in the name or interest of the owner of the horse at the time of entry for the race from which the horse was claimed;
- (2) remain in or be returned to the same stable or to the care or management of the first owner or trainer; or
- (3) be sold or transferred to anyone;

for a period of sixty (60) days unless reclaimed out of another claiming race.

(p) The claiming price shall be paid to the owner at the time of entry for the race from which the horse was claimed only when the successful claimant is not in pending status by the USTA, the judges are satisfied that the claim is valid, and the successful claimant is recognized as the owner of record.

(q) The judges, at the option of the claimant, shall rule a claim invalid if the horse has been found ineligible to the race from which it was claimed.

(r) Mares and fillies that are in foal are ineligible for claiming races. Upon receipt of the horse, if a claimant determines within forty-eight (48) hours that a claimed filly or mare is in foal, he or she may, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.

(s) If a claimant demonstrates that the sex of the horse is other than reported in the official racing program, he or she may, within forty-eight (48) hours of the claim, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed. The judge shall rule the claim of the returned horse invalid.

(t) If the post-race serum or plasma sample of the horse contains cobalt in excess of the threshold established in 71 IAC 8-1-9, the claimant will be notified of the test result and he or she may, within forty-eight (48) hours of notification, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.

(u) When the judges rule that a claim is invalid and the horse is returned to the owner of the horse at the time of entry for the race in which the invalid claim was made:

(1) the amount of the claiming price and any other required fees and taxes shall be repaid to the claimant;

(2) any purse monies earned subsequent to the date of the claim and before the date on which the claim is ruled invalid shall be the property of the claimant; and

(3) the claimant shall be responsible for any reasonable costs incurred through the care, training, or racing of the horse while it was in his or her possession.

~~(v) Notwithstanding the provisions of subsection (u), a claimed horse shall be allowed to compete out of state while on the sixty (60) day hold period in any stake, or early and late closer, it is listed as being paid prior to the claim.~~

(Indiana Horse Racing Commission; 71 IAC 6-1-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1149; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2907; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2400; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1915; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2747; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2215; emergency rule filed Mar 12, 2008, 1:53 p.m.: 20080326-IR-071080191ERA, eff Mar 11, 2008 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: 20090401-IR-071090195ERA, eff Mar 12, 2009 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA; emergency rule filed Sep 15, 2014, 12:44 p.m.: 20140924-

IR-071140352ERA, eff Sep 30, 2014; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA)

SECTION 2. 71 IAC 8-11-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-11-4 Refusal or failure to be tested
Authority: IC 4-31-3-9
Affected: IC 4-31-8-4

Sec. 4. The judges ~~shall~~ **may**, on behalf of the commission, impose the following sanctions against a licensee who refuses or fails to submit to or complete a breath test:

(1) For the first refusal or failure, a civil penalty of one hundred dollars (\$100) and a seven (7) day suspension.

(2) For a second refusal or failure, a civil penalty of two hundred fifty dollars (\$250) and a thirty (30) day suspension.

(3) For any additional refusals or failures to submit to a breath test, a civil penalty of two hundred fifty dollars (\$250), a sixty

(60) day suspension, and referral of the case to the commission for any further action that the commission considers necessary.

(Indiana Horse Racing Commission; 71 IAC 8-11-4; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1178; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1672, eff Feb 24, 2000; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

SECTION 3. 71 IAC 8.5-11-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-11-4 Refusal or failure to be tested
Authority: IC 4-31-3-9
Affected: IC 4-31-8-4

Sec. 4. The stewards ~~shall~~ **may**, on behalf of the commission, impose the following sanctions against a licensee who refuses or fails to submit to or complete a breath test:

(1) For the first refusal or failure, a civil penalty of one hundred dollars (\$100) and a seven (7) day suspension.

(2) For a second refusal or failure, a civil penalty of two hundred fifty dollars (\$250) and a thirty (30) day suspension.

(3) For any additional refusals or failures to submit to a breath test, a civil penalty of two hundred fifty dollars (\$250), a sixty

(60) day suspension, and referral of the case to the commission for any further action that the commission considers necessary.

(Indiana Horse Racing Commission; 71 IAC 8.5-11-4; emergency rule filed Jun 15,

1995, 5:00 p.m.: 18 IR 2889, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2786; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

SECTION 4. 71 IAC 10-3-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-3-4 Filing pleadings

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 4. (a) Except as otherwise provided by this section, an original and one (1) copy of each pleading must be filed with the commission. An original and one (1) copy of each pleading relating to discovery must be filed with the commission. A pleading is considered filed only when actually received by the commission. Each pleading must include a certification that a copy has been served on each party of record, stating the name of each party served and the date and manner of service.

(b) ~~If a A pleading is sent to the commission by first class United States mail in an envelope or wrapper properly addressed and stamped shall comply with Indiana Rule of Trial Procedure 5(B)(2). and is deposited in the mail one (1) day or more before the last day for filing the pleading, the pleading is considered received and filed in time if the pleading is actually received not more than ten (10) days after the deadline.~~ A legible postmark affixed by the United States postal service is prima facie evidence of the date of mailing. For purposes of responsive pleadings for which the deadline for filing is set by the filing of another pleading, the pleading to be filed first is considered filed when actually received by the commission.

(c) Unless otherwise provided by statute, the administrative law judge for a proceeding may extend the time for filing a pleading on a motion made by a party before the filing deadline if the administrative law judge determines that there is good cause for the extension and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion. A copy of a motion made under this section must be served on all parties of record contemporaneously with the filing of the motion.

(d) A pleading may be filed by facsimile, provided an original and the required number of copies are received in the commission's office not later than 5 p.m. of the third day after the date the document was filed by facsimile. The inability to transmit a document due to equipment malfunction or any other cause does not relieve the person attempting to file the document of the filing deadline.

(e) If the deadline for filing a pleading falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(f) The failure to file a pleading in accordance with this section may result in the pleading being struck.

(Indiana Horse Racing Commission; 71 IAC 10-3-4; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1202; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2110; readopted

filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA)