

## LAW AND PUBLIC SAFETY

(b)

### NEW JERSEY RACING COMMISSION

#### Horse Racing

#### Exemption from Claim; Voidable Claims

#### Adopted Amendments: N.J.A.C. 13:70-12.1A and 12.20A

Proposed: March 5, 2018, at 50 N.J.R. 936(a).

Adopted: July 18, 2018, by New Jersey Racing Commission, Judith A. Nason, Acting Executive Director.

Filed: July 18, 2018, as R.2018 d.155, without change.

Authority: N.J.S.A. 5:5-30.

Effective Date: August 20, 2018.

Expiration Date: August 28, 2024.

#### Summary of Public Comment and Agency Response:

The official comment period ended May 4, 2018. The following is a summary of the comment received and the Commission's response. The Commission received one comment via electronic mail from a member of the public calling herself "Jean Public."

1. COMMENT: The commenter states that the risk of injury to racehorses is "through the roof and results in abuse to the horses." The commenter then provides an unverified list of horses she alleges were "killed in action" so far in 2018 and highlights her concern over equine fatalities at United States racetracks.

RESPONSE: The Commission thanks the commenter for her concern. However, the comments address an issue beyond the scope of the amendments, which are intended to clarify the exemption from claim provision, and address certain limitations in the voidable claim provision. As a result, the Commission rejects the comment.

#### Federal Standards Statement

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the adopted amendments. The Commission adopts these amendments pursuant to the rulemaking authority set forth at N.J.S.A. 5:5-30.

Full text of the adoption follows:

#### SUBCHAPTER 12. CLAIMING

##### 13:70-12.1A Exemption from claim

(a) A horse that is entered into any claiming race governed by this subchapter shall be exempted from any claim of title, if:

1. Said horse has not started in any race for a period of 180 days from the date of the last claiming race in which the horse was a starter;

2.-3. (No change.)

(b) (No change.)

##### 13:70-12.20A Voidable claims

(a) A claim is voidable at the discretion of the successful claimant if:

1. A post-race test of the claimed horse pursuant to N.J.A.C. 13:70-12.36 returns a positive finding for any drug and/or substance foreign to the natural horse. However, if the successful claimant races the horse prior to receiving the results of the post-race test, the claimant waives his or her right to void the claim. Further, if the claimant races the horse prior to receiving the results of the post-race test and the horse tests positive for any substance, including the substance that the horse tested positive for in connection with the race in which it was claimed, the claimant's trainer shall be liable for the positive post-race test in accordance with the rules of the Commission; or

2. A claimed horse, after starting in the race from which it was claimed, and at the direction of the State Veterinarian, is ordered transported or "vanned off" via racetrack equine ambulance from the track. In such an instance, the claimant or his or her trainer shall have one hour from off-time of the race in which the horse was claimed, to inform the stewards of his or her decision to void the claim. Should the claimant, or his or her trainer or representative, take possession of the horse and remove it from the detention barn or should the claimant or his or her trainer fail to communicate to the stewards his or her decision to void the claim within one hour from off-time, the claim shall be considered valid and the right to void the claim shall expire. Communication of the claimant's decision to void the claim may be made to the State Veterinarian who shall then log the time the decision was communicated and immediately contact the stewards.

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