

STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS

PART 352

TESTING HORSES FOR DRUGS AT PULLING CONTESTS

Sec.

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Section 352.1 Definitions. When used in these rules, the following terms shall have the meanings given for them in this section:

(a) Commissioner - The Commissioner of the New York State Department of Agriculture and Markets.

(b) Department - New York State Department of Agriculture and Markets.

(c) Director - The Director of the Division of Animal Industry of the New York State Department of Agriculture and Markets.

(d) Drug - Any drug, medication, stimulant, depressant, hypnotic or narcotic used in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

(e) Fair - All agricultural fairs and expositions, including the New York State Fair, which hold pulling contests and receive premium reimbursement from New York State.

(f) Horses - All members of the family Equidae.

(g) Laboratory - A laboratory designated by the commissioner to perform tests on official samples of blood, saliva and urine.

(h) Official sample - A blood sample, a saliva sample or a urine sample obtained from a horse entered in a pulling contest for a test.

(i) Test - A test performed at a laboratory on an official sample to determine the presence of drugs.

(j) Veterinarian - A veterinarian licensed and accredited by New York State and authorized by the director to take official samples.

Section 352.2 Prohibition. No person shall enter or drive a horse which has a drug in its body in a pulling contest.

Section 352.3 Tests. (a) An official sample shall be taken by a veterinarian of at least four horses chosen by lot in every weight class. Each horse entering each weight class shall be identified by number. Numbers shall be drawn by lot until at least four horses are designated for sampling.

(b) The veterinarian or any judge may also require that an official sample be taken of any horse not included in the selection specified in subdivision (a) of this section if in his or her opinion such a sample is necessary to assure the integrity of the testing program.

(c) Each official sample shall be submitted by the veterinarian to a laboratory for a test. Test results disclosing the presence of drugs shall be forwarded to the director who shall notify the fair concerned and shall give written notice thereof by regular mail, personal service or certified mail to the owner and the person having care, custody or control of the horse.

Section 352.4 Assistance in the enforcement of this part. (a) The owner or the person having the care, custody, or control of any horse shall present such horse for appropriate sample collection when so directed by the veterinarian, and shall restrain the horse and supply the assistance necessary for the veterinarian to obtain the official sample. Failure of the owner or the person having the care, custody, or control of a horse to submit it for testing or failure to provide adequate assistance to the veterinarian in obtaining an official sample shall result in forfeiture of all rights to premiums paid for the contest for which the sample was to be collected and immediate exclusion from participation in future pulling contests at fairs.

(b) Responsibility of fairs. Each fair shall comply with and assist in the enforcement of this Part and provide such restraint facilities and lighting as may be required by the department.

Section 352.5 Penalties. The owner of any horse which tests positive for the presence of drugs shall be held responsible for the violation.

(a) First violation: Within fifteen days from the date of the notice of the first violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law Section 40.

(b) Second violation. Within fifteen days from the date of notice of the second violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law Section 40.

(c) Third violation. Within fifteen days from the date of the notice of the third violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law Section 40. Further, the owner shall thereafter be prohibited from participating in pulling contests at fairs for two years from the date of the notification of the third violation.

(d) Succeeding violations. Within fifteen days from the date of the notice of succeeding violations, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the horse pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law Section 40. Further, the owner shall be prohibited from participating in pulling contests at fairs for five years from the date of the notification of the succeeding violation.

(e) Failure to return the premium within the fifteen-day period will result in the exclusion of the owner from participation in pulling contests at fairs thereafter, unless a request for hearing has been made pursuant to subdivision (f) of this section.

(f) If, within fifteen days from the date of the notice of any violation, the owner makes a written request to the commissioner for a hearing, the commissioner, upon reasonable notice to all parties and to the fair at which the pulling contest was held and at which the sample in question was taken, shall fix a date for a hearing to be held pursuant to Article 3 of the Agriculture and Markets Law of the State of New York and the rules and regulations of the New York State Department of Agriculture and Markets.

(1) Each request for a hearing must be accompanied by a security deposit in the form of a certified check or money order equal to the amount of premium moneys received in the pulling contest at which the alleged violation occurred. If, subsequent to the date of the pulling contest at which the violation occurred and before the determination is made upon the hearing, the owner receives any premium moneys from any other pulling contests in fairs, the amount of the security deposit shall be increased by the amount of such premium.

(2) After such hearing, the commissioner shall issue a determination and order setting forth any penalties which shall be assessed and the grounds upon which they are based, and any premium moneys which must be returned. The security deposit shall be applied to the payment of premium moneys. Any balance of security deposit funds remaining after such payments are deducted shall be returned to the owner. As required in this Part, the commissioner shall also order that the owner be prohibited from participating in pulling contests.