

Horse Racing Policy: Licensee Drug Testing

Pursuant to Part 7, section 50(1)(3) of the Gaming Control Act for the Province of British Columbia:

50 (1) For the purposes of ensuring compliance with this Part, the regulations and rules under this Part and the terms and conditions of a horse racing licence, but subject to subsection (2), a person employed in the branch who

- (a) is a judge or steward, or
- (b) is designated by the general manager for the purposes of this section

to attend at race meetings, racetracks or designated race horse training centres on behalf of the general manager may require a licensee

- (c) to submit to a search of the licensee's person, and
- (d) to provide samples of the licensee's blood, saliva, urine, breath or other materials for testing or analysis.

(3) A licensee must comply with a demand made under subsection (1).

Why does the Gaming Policy Enforcement Branch require drug testing under section 50(1)(d)?

The Branch has a wide mandate to regulate horse racing in the Province. That mandate includes responsibility for industry safety and integrity in their widest senses. Horse racing is an elite and dangerous sport. Horse racing is also integrally tied to gaming. This makes it a significant economic enhancement to the community but one that is unusually vulnerable to illegal or improper influences. The public, however, rightfully expect horse racing to be conducted in as safe a manner as possible and without illegal or improper influences and that the Racing Division, of the Gaming Policy and Enforcement Branch, will regulate horse racing to that very end. The Branch therefore requires licensee drug testing:

- As part of its responsibility to prevent human and equine safety from being compromised by licensee drug use;
- As part of its responsibility to protect the integrity of the industry in the eyes of the public;
- As part of its responsibility to protect the financial health of the industry.

What Drugs are Urine Samples Tested For?

A person authorized for the purposes of section 50(1)(d) of the Act may require a urine/saliva sample to be tested for any drug, the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing.

Urine/saliva samples will usually be analyzed for:

- cocaine
- marijuana

- amphetamines (stimulants)

Urine/saliva samples may also be analyzed for:

- barbiturates (sedatives)
- benzodiazepines (tranquilizers)
- propoxyphene (pain killers)
- phencyclidine (angel dust)
- opiates (heroin, morphine, codeine)

Urine/saliva samples may also be analyzed for other drugs if there is reasoned suspicion that the use of the drug will compromise human or equine safety or harm the integrity or financial health of horse racing.

A licensee will be informed at the time he or she gives a urine/saliva sample if the sample will be tested for any drugs other than cocaine, marijuana or amphetamines.

Who Gets Tested?

Licensed officials, jockeys, drivers, gate crew, valets

A person authorized for the purposes of section 50(1)(d) of the Act may require licensed officials, jockeys, drivers, gate crew or valets to provide urine/saliva samples at any time. However, demands will usually be made:

- On a periodic basis, of all licensed officials, jockeys, drivers, gate crew and valets, and
- Of licensed officials, jockeys, drivers, gate crew and valets, based upon a reasoned suspicion that the licensee has used a drug, the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing.

Trainers, exercise riders, grooms and any other persons entitled to be mounted

Trainers, exercise riders, mounted persons, or grooms may also be required to provide a urine/saliva sample at any time. However, a demand will usually be made:

- On a periodic basis, of randomly selected exercise riders, mounted persons, or grooms, and
- Of trainers, exercise riders, mounted persons, or grooms, based upon a reasoned suspicion that the licensee has used a drug, the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing.

Owners and other licensees not authorized to handle or mount horses

Owners and other licensees whose licences do not authorize them to handle or mount horses will not usually be required to provide urine/saliva sample under section 50(1)(d) of the Act. When required, the demand will be based on a reasoned suspicion that the licensee has had or will have contact with or access to a horse under the jurisdiction of the Branch (Racing Division) when a drug, which may compromise human or equine safety or harm the integrity or financial health of horse racing has been consumed by the licensee or administered to the horse.

What is Reasoned Suspicion?

When determining whether there is reasoned suspicion to require testing, a person authorized for the purposes of section 50(1)(d) of the Act may consider, but is not limited to considering, any of the following factors:

- Involvement in any accident which causes injury to a person or animal at a racetrack, as well as any near accident which created a clear danger of accident or injury to a person or animal at a racetrack;
- Conduct detrimental to horse racing as evidenced by unexplained or continued rule violations, other disciplinary problems, behavioral problems, disturbances or other similar conduct at a racetrack;
- Observable physical or emotional impairment at a racetrack;
- Involvement in a race of questionable outcome or circumstance as determined by the stewards/judges in the exercise of their expertise;
- Willful abuse of animals or persons who are engaged in a race, work or exercise engagement at a racetrack;
- Prior reported positive urine/saliva samples which resulted in a ruling against the licensee, except when the licensee has complied with the conditions or requirements necessary to bring his or her licensing status back into good and unconditional standing;
- Contact with a horse under the Branch's jurisdiction when that horse has tested positive for a drug, the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing;
- Performance of duties in a manner which indicates a best effort to win is not present at a racetrack;
- Information relating to drug use from a law enforcement agency, industry organization or horse racing commission of any province, state or country;
- Unexplained absence from duties of the licensee;
- Any other conduct at a racetrack which might indicate dependence on or usage of a drug, the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing.

Where and When Samples are Taken

Unless a person authorized for the purposes of section 50(1)(d) of the Act directs or permits otherwise, a licensee who has been required to provide a urine/saliva sample must do so at a designated sample collection site, designated by the Racing Division of the Gaming Policy and Enforcement Branch. This will usually be at the racetrack where the demand was made.

Jockeys will be required to provide their urine samples within 24 hours of demand. All other licensees will be required to provide their urine samples within 5 hours of demand. All licensees, including jockeys, will provide a saliva sample immediately upon demand.

Privacy in Giving Urine Samples

The licensee will be required to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the licensee's urine sample. Personal belongings such as purses or briefcases will also be required to remain with outer garments, except wallets that the licensee may retain.

The licensee will be provided with a clean, sealed, temperature sensitive sample container which identifies the licensee by number only, and into which the licensee must provide a fresh urine sample.

Unless there is reason to believe that the licensee may alter or substitute the urine sample to be provided, the licensee will be allowed to provide the sample in a stall or otherwise partitioned area at the collection site that allows for individual privacy.

Where there is reason to believe that the licensee may alter or substitute the urine sample to be provided, the licensee will be required to provide the sample in the presence of and under the direct observation of a person authorized under section 50(1)(a)(b) of the Act, who is of the same gender as the licensee.

Partial Urine Samples

If less than 40 ml of urine is provided in a sample container, additional urine will be collected from the licensee in a separate sample container to reach a total of 40 ml. The licensee may be given a reasonable amount of liquid to drink for this purpose. The temperature of the partial sample in each separate container will be noted and the partial samples will be combined in one sample container.

Security of Urine Samples

The sample container will be resealed with a tamper-proof seal immediately after the sample is provided and in the presence of the licensee. The licensee will be required to initial the identification label on the container for the purpose of certifying that his or her urine sample is in the container. The identifying number on the sample container, together with the name and signature of the licensee, the date and time the sample was provided, and the name and signature of the person authorized under section 50(1)(a)(b) of the Act to whom the container was given, will be recorded in a log book. A chain of custody form identifying the licensee by number only will also be initiated for the sample container.

The sample container will be placed in a secure refrigerator until it is shipped by courier to the laboratory for analysis. The log book and chain of custody forms will also be kept in secure storage.

Security of Saliva Samples

Results of a saliva sample will be known immediately. When a saliva sample tests positive for a drug, a second saliva sample will be taken immediately and placed in a container. The licensee will be required to initial the identification label on the container certifying his or her saliva sample is in that container. A chain of custody form identifying the licensee by number only will also be initiated for the sample container.

When a Second Urine Sample will be Required

When the temperature of a urine sample falls outside the normal temperature range (32.5-37.7 degrees Centigrade/90.5 – 99.9 degrees Fahrenheit), the licensee will be required to give another urine sample. The second sample will be required to be provided at a Branch designated collection site in the presence of and under the direct observation of a person authorized under section 50(1)(a)(b) of the Act who is of the same gender as the licensee. Both samples will be tested.

Analysis of Samples

Urine samples and the second saliva sample taken for drug testing pursuant to section 50(1)(d) of the Act are analyzed by a laboratory selected by the Branch and accredited by the U.S. Department of Health & Human Services.

Positive Urine/Saliva Samples

All urine samples undergo initial immunoassay testing. Those urine samples with initial positive test results then undergo confirmatory quantitative gas chromatography/mass spectrometry testing.

A urine/saliva sample tests positive if it contains more than the established cut off level for that drug and that method of testing. A urine/saliva sample is only reported positive by the laboratory if it has tested positive by both initial and confirmatory testing methods.

The established cut off levels for the initial urine immunoassay testing are as follows:

- THC metabolite (50 ng/ml)
- Cocaine Metabolite (300 ng/ml)
- Opiate metabolite (2000 ng/ml)
- Phencyclidine (25 ng/ml)
- Amphetamines (1,000 ng/ml)

The established cut off levels for the initial saliva test are as follows:

- TH 9-Tetrahydrocannabinol (40 ng/ml)
- CO Cocaine (20 ng/ml)
- OP Morphine (10 ng/ml)
- PC Phencyclidine (4 ng/ml)
- AM d-Amphetamine (25 ng/ml)
- ME d-Methamphetamine/MDMA (25 ng/ml)

The established cut off levels for the confirmatory quantitative gas chromatography/mass spectrometry testing are as follows:

- THC metabolite (15 ng/ml)
- Cocaine metabolite (150 ng/ml)
- Opiates
 - Morphine (2000 ng/ml)
 - Codeine (2000 ng/ml)
 - Phencyclidine (25 ng/ml)
- Amphetamines
 - Amphetamine (500 ng/ml)
 - Metamphetamine (500 ng/ml)

For each reported positive urine/saliva sample the laboratory provides the Racing Division, of Gaming Policy and Enforcement Branch, with a certificate of positive analysis which identifies the licensee only by the number on his or her urine/saliva sample container. Each certificate of positive analysis is matched against the applicable licensee's name in the Racing Division's

drug testing log book and that licensee is notified that his or her urine/saliva sample has been reported positive.

Refusal to Provide a Sample

Refusal to provide a urine/saliva sample as required under section 50(3) of the Act will be treated as equivalent to a reported positive sample and may also result in additional sanctions under section 51 of the Act.

Retesting of Urine Samples

The Racing Division, of the Gaming Policy and Enforcement Branch, may permit retesting of urine samples, usually only under the following conditions:

- In the laboratory's opinion, a sufficient quantity of the sample remains for retesting and it has not suffered degradation to the extent that test results would be inconclusive;
- The sample remains in the Branch's or the laboratory's care and custody;
- The retesting is conducted by a Branch approved laboratory. The Branch will only approve laboratories that are accredited by the U.S. Department of Health and Human Services;
- The retesting request is made within 30 days of the licensee being notified that the urine sample has reported positive; and
- The person making the request pays all retesting costs in advance.

A retesting request must be submitted in writing to the Racing Division Executive Director, along with advance payment of the full cost of retesting.

Consequences of a Reported Positive Urine/Saliva Sample

Unless the licensee has a valid medical reason for the use of a drug which may compromise human or equine safety or harm the integrity or financial health of horse racing, a reported positive urine/saliva sample will usually give rise under the Act to a section 51(2) ruling against the licensee.

A licensee that tests positive on the first saliva sample taken will be suspended pending the outcome of the second saliva sample taken and sent to the laboratory for confirmation.

The first reported positive urine/saliva sample will usually result in an immediate ruling suspending the licensee's licence for thirty (30) calendar days **and** until he or she provides a urine/saliva sample which does not result in a reported positive. That urine/saliva sample will be at the expense of the licensee, as set out by the Racing Division Executive Director, and a reported positive of that sample will not be counted in the number of positives by that licensee. The licensee will also sign a conditional licence agreement, and be responsible to follow those conditions set out in that agreement, which will be enforced by the stewards/judges.

The second reported positive urine/saliva sample within a 24-month period will usually result in a condition on the licensee's licence requiring him or her to enroll in and successfully complete a residential alcohol and drug abuse centre program acceptable to the Branch. While in the treatment centre, the licensee will be required to provide the Racing Division of the Gaming and Policy Enforcement Branch, on request, with reports on the treatment being received and his or her progress in the treatment. Upon completion of the program, the licensee will be required to appear before and satisfy the stewards or judges, as the case may be, that he or she is able to resume licensed duties and responsibilities, and to provide a further urine/saliva sample at the

licensee's expense, (as set out by the Racing Division Executive Director, and a reported positive of that sample will not be counted in the number of positives by that licensee), which does not result in a reported positive test result. The licensee will continue on his/hers signed conditional licence agreement.

Three or more reported positive urine/saliva samples within a 3-year period would usually result in more serious action under section 51(2) of the Act proportional to the circumstances of each case.

The Branch may include reported positive urine/saliva samples from other racing jurisdictions when determining a licensee's number of reported positive samples.

Consequences of Reported Positive Urine/Saliva Samples for Drugs Used for Valid Medical Reasons

When a licensee required to provide a urine/saliva sample is using, for valid medical reasons, a drug the use of which may compromise human or equine safety or harm the integrity or financial health of horse racing, it is the licensee's responsibility to inform the person authorized for the purposes of section 50(1) of the Act of the name, quantity and dosage of the drug, the name of the medical professional who prescribed the drug, the date it was prescribed, and when the licensee last took the drug. This information will be recorded in the logbook.

If a urine/saliva sample is subsequently reported positive for a drug which the licensee claims to have used for a valid medical reason, the licensee will be referred to the Track Doctor who will determine the extent of the medical problem and the level of medication in the licensee's system. If, in the opinion of the Track Doctor, the level could result in impaired functioning, the Track Doctor will recommend appropriate steps to ensure that the licensee does not perform his or her licensed duties until, in the opinion of the Track Doctor, the medical condition is under control or the level of medication is such that the licensee can perform his or her licensed duties safely.

A reported positive urine/saliva sample for a drug used for valid medical reasons will not usually give rise to a ruling under section 51(2) of the Act. An exception would be where the licensee refuses to follow medical advice to ensure that he or she does not engage in licensed duties until, in the opinion of the Track Doctor, the medical condition is under control or the level of medication is such that the licensee can perform his or her licensed duties safely.

Use and Disclosure of Recorded Identifying Personal Information about Licensees

The Branch's use and disclosure of recorded identifying personal information about a licensee, which has been collected in the exercise of the Branch's powers and duties under the Act, is regulated by provisions of the Freedom of Information and Protection of Privacy Act, S.B.C. 1992, c. 61. Such information collected in connection with drug testing under section 50(1) of the Act will consist of medical information, certificates of positive results (when matched with licensee identifying information), reports filed as a result of attending a treatment program and rulings arising from reported positive results. This information will only be used or disclosed by the Branch in accordance with Part 3, Division 2, of the Freedom of Information and Protection of Privacy Act. Under this legislation a licensee may also request access to his or her recorded identifying personal information and, where desired, correct or annotate that information.

Copies of the relevant provisions of the Freedom of Information and Protection of Privacy Act are available from the Branch on request.

The following Branch practices with respect to recorded identifying personal information about licensees collected in connection with drug testing under section 50(1) of the Act, comply with the Freedom of Information and Protection of Privacy Act:

- Section 51(2) rulings against licensees in relation to reported positive urine samples, when issued from rulings, internal reconsideration and administrative review decisions and reasons from rulings, will be:
 - Part of the Racing Division's public and internal records of that licensee's licensing history;
 - Reported by the Racing Division of the Gaming Policy and Enforcement Branch to the Association of Racing Commissioners International;
 - Reported on request to other law enforcement agencies.
- Other recorded identifying personal information about licensees collected in connection with drug testing under section 50(1) of the Act, such as medical information, certificates of positive analysis (when matched with licensee identifying information) and reports filed as a result of attending a treatment program, will be treated as confidential except for their present or future use in issuing rulings or other licensing decisions about the licensee concerned, or in hearings, internal reconsideration, administrative reviews or other proceedings regarding rulings or other licensing decisions. This information will be securely stored apart from the Racing Division's public or internal licensing history records and will only be disclosed in accordance with section 33 of the Freedom of Information and Protection of Privacy Act. In most cases, this will limit access:
 - To the Racing Division Executive Director or other persons authorized by the Executive Director for use in issuing rulings or other licensing decisions about the licensee concerned, or in hearings, internal reconsideration, administrative reviews or other proceedings regarding rulings or other licensing decisions;
 - To the licensee concerned or other persons the licensee authorizes to have access; and
 - For the purpose of complying with a subpoena, warrant or order of a court, person or body with jurisdiction to compel access.

Original signed on January 10, 2007 by: Samuel Hawkins
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