



2/25/2016

To Hialeah Horsemen: First of all let us say that all money for non tested horses has been released since day one. Florida statute 550.2415 is copied (1)(a) and (4) is highlighted for your review. You will notice that in (1)(a) and (4) the statute basically says the identity of the animal, trainer and owner and the test results of any "positive tests" are confidential for 10 days after the results have been reported to the director of the division OR administrative action has been commenced. In past years since 2009, DBPR had interpreted the confidentiality clause to mean anything dealing with the positive test itself (not negative test) was confidential for 10 days after the party was served. There has been a management change since early December 2015 at DBPR PMW and the new management interprets the language to mean that if they announced the negative tests, it would break the confidentiality of the positive tests because by deduction the positive tested horses could be figured out. DBPR has 90 days to serve the trainers. Until legislation was passed in 2015, DBPR had 2 years to serve the offending trainer. They now have 90 days.

FQHRA officials and its attorney met with DBPR in early February to try to get the negative tests results released. DBPR was firm in their stance to wait until the positive tests were served to announce the negative tests. About two weeks ago DBPR announced they were sending out some test results. Only 4 of the many results were from Hialeah and non of the results were negative. FQHRA's lawyers could not persuade DBPR to let us know if the four positive tests were the only positive tests through January 10. "We continue to work on the "or" in the sentence in hopes DBPR will consider the 10 days of confidentiality to begin when the director is notified.

We have spoken with a high percentage of the trainers and owners at Hialeah. We have always asked the question of: Do you prefer for FQHRA to release the tested horses purses now or wait for negative test results to receive the purse money?" So far the answer has always been that the owners and trainers prefer to wait for test results but they want the results faster. The speed of the release of test results is not under FQHRA's control. The release of the negative test results is at the discretion of Florida DBPR. The good news is that it should be within 90 days. There is plenty of money in the bank to pay all the purses when the negative test results are released.

The minute FQHRA receives any negative test results we will release that purse to the owner. FQHRA will stay on this until the purses are paid. We are also working daily to help make sure the tracks don't "decouple" the horses from their rightful future purse money. The legislative session ends in 2 weeks and so far there is no decoupling. We are working for the horsemen every day. FQHRA may not always tell the horsemen what they want to hear but we do tell you the real deal each and every time. The situation may not be what we want it to be but dealing with the current facts is the only way we can make progress.. We need to stay together and stay the course. Racing will be here and their money will be available when DBPR releases the results unless ALL the horsemen decide they want the money released even without test results. If that is the will of the horsemen then that is what FQHRA will do. All non tested purse money has been released and as of today there was \$769,308 that could be taken out of accounts from non tested that is just sitting there available.

FQHRA's purpose is to take care of the horsemen and to increase and improve racing and breeding opportunities in the state. Sometimes the right road is the hard road to take. Until we can persuade DBPR to release the negative tests results faster it is in the best interest of everyone concerned and most importantly the

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owner, to pay the purses to the rightful winner. The only way that can be accomplished it to wait for the negative results. Many of you have read about “decoupling” the horsemen from their rightful purse money made by the deal the horsemen and casino made to have “racinos”. The legislative session is nearly over and to this date the legislature has seen the great value of the agricultural economic impact of AQHA horse racing and breeding in Florida. FQHRA and its alliances with the FHBPA, FTBOA and the FSBBOA as the United Florida Horsemen has been the reason there is no decoupling. You have been represented daily in the legislature by FQHRA’s lobbyist and at weekly committee meetings by FQHRA leadership and representatives. Protecting horse racing is a full time job. There may be people who say what you want to hear but when the rubber meets the road you need a group who will stand tall and represent you in tough times. FQHRA has been and will continue to be that group.

Sincerely and Respectfully,

Ron Smith

Ron Smith, President FQHRA, Inc.

Steve Fisch, DVM

Steve Fisch, DVM

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(1)(a) The racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present is prohibited. It is a violation of this section for a person to impermissibly medicate an animal or for an animal to have a prohibited substance present resulting in a positive test for such medications or substances based on samples taken from the animal before or immediately after the racing of that animal. **Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the division or administrative action has been commenced.**

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may solicit input from the Department of Agriculture and Consumer Services and adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

(2) Administrative action may be taken by the division against an occupational licensee responsible pursuant to rule of the division for the condition of an animal that has been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the division may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding the purse or sweepstakes earned by the animal in the race at issue or \$10,000, whichever is greater; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section does not prohibit a prosecution for criminal acts committed.

(b) The division, notwithstanding chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if the division laboratory reports the

presence of a prohibited substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the division shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the division shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.

(4) A prosecution pursuant to this section for a violation of this section must begin within 90 days after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The division shall implement a split-sample procedure for testing animals under this section.

(a) The division shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test results. If a drug test result is positive, and upon request by the affected trainer or owner of the animal from which the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from if a drug test result is positive.

(b) If the division laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued.

(c) If the independent laboratory confirms the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.

(d) For the testing of a racing greyhound, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120.

(e) For the testing of a racehorse, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may not take further action on the matter against the owner or trainer, and any resulting license suspension must be immediately lifted.

(f) The division shall require its laboratory and the independent laboratories to annually participate in an externally administered quality assurance program designed to assess testing proficiency in the detection and appropriate quantification of medications, drugs, and naturally occurring substances that may be administered to racing animals. The administrator of the quality assurance program shall report its results and findings to the division and the Department of Agriculture and Consumer Services.