

CHAPTER 2015-88

Committee Substitute for House Bill No. 239

An act relating to medication and testing of racing animals; amending s. 550.2415, F.S.; revising provisions that prohibit the use of certain medications or substances on racing animals; revising penalties that may be imposed by the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation; revising the timeframe in which certain prosecutions must begin; revising procedures; revising requirements for notification of drug test results; providing for secondary tests to confirm initial positive results; providing for actions of the division if there is insufficient sample material for a secondary test; requiring the division to require its laboratory and specified independent laboratories to annually participate in a quality assurance program; requiring the administrator of the program to submit a report; revising rulemaking authority of the division; directing the division to adopt certain rules relating to the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances; authorizing the division to solicit input from the Department of Agriculture and Consumer Services for purposes of adopting such rules; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (b) of subsection (1), paragraphs (a) and (b) of subsection (3), subsections (4) and (5), and subsections (7) through (16) of section 550.2415, Florida Statutes, are amended to read:

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 with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent 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 administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result in a positive test for such medications or substances such substance based on samples taken from the animal before immediately prior to 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.

(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 \$5,000; 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 in no way prohibits a prosecution for criminal acts committed.

(b) The division, notwithstanding ~~the provisions of~~ 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 ~~an impermissible~~ 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.

(4) A prosecution pursuant to this section for a violation of this section must begin ~~be commenced~~ within 90 days ~~2 years~~ 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) ~~Upon finding a positive drug test result, The~~ division department shall notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test ~~the~~ results. If a drug test result is positive ~~The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the division. Custody of both samples must remain with the division. However, 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 in the event of a positive test sample.

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

~~substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.~~

(c) ~~If the independent laboratory confirms the division state laboratory's positive result, or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state 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.

(7)(a) In order to protect the safety and welfare of racing animals and the integrity of the races in which the animals participate, the division shall adopt rules establishing the conditions of use and maximum concentrations of medications, drugs, and naturally occurring substances identified in the Controlled Therapeutic Medication Schedule, Version 2.1, revised April 17, 2014, adopted by the Association of Racing Commissioners International, Inc. Controlled therapeutic medications include only the specific medications and concentrations allowed in biological samples which have been approved by the Association of Racing Commissioners International, Inc., as controlled therapeutic medications.

(b) The division rules must designate the appropriate biological specimens by which the administration of medications, drugs, and naturally occurring substances is monitored and must determine the testing methodologies, including measurement uncertainties, for screening such specimens to confirm the presence of medications, drugs, and naturally occurring substances.

(c) The division rules must include a classification system for drugs and substances and a corresponding penalty schedule for violations which

incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014, by the Association of Racing Commissioners International, Inc. The division shall adopt laboratory screening limits approved by the Association of Racing Commissioners International, Inc., for drugs and medications that are not included as controlled therapeutic medications, the presence of which in a sample may result in a violation of this section.

(d) The division rules must include conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(e) The division may solicit input from the Department of Agriculture and Consumer Services in adopting the rules required under this subsection. Such rules must be adopted before January 1, 2016 Under no circumstances may any medication be administered closer than 24 hours prior to the officially scheduled post time of a race except as provided for in this section.

~~(a) The division shall adopt rules setting conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.~~

~~(b) The division shall adopt rules setting conditions for the use of prednisolone sodium succinate, but under no circumstances may furosemide or prednisolone sodium succinate be administered closer than 4 hours prior to the officially scheduled post time for the race.~~

~~(c) The division shall adopt rules setting conditions for the use of phenylbutazone and synthetic corticosteroids; in no case, except as provided in paragraph (b), shall these substances be given closer than 24 hours prior to the officially scheduled post time of a race. Oral corticosteroids are prohibited except when prescribed by a licensed veterinarian and reported to the division on forms prescribed by the division.~~

~~(f)(d) This section does not~~ Nothing in this section shall be interpreted to prohibit the use of vitamins, minerals, or naturally occurring substances so long as none exceeds the normal physiological concentration in a race-day specimen.

~~(e) The division may, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimens by which the administration of permitted medication is monitored.~~

(8)(a) Furosemide is the only medication that may be administered within 24 hours before the officially scheduled post time of a race, but it may not be administered within 4 hours before the officially scheduled post time of a race Under no circumstances may any medication be administered within 24 hours before the officially scheduled post time of the race except as provided in this section.

~~(b) As an exception to this section, if the division first determines that the use of furosemide, phenylbutazone, or prednisolone sodium succinate in horses is in the best interest of racing, the division may adopt rules allowing~~

~~such use. Any rules allowing the use of furosemide, phenylbutazone, or prednisolone sodium succinate in racing must set the conditions for such use. Under no circumstances may a rule be adopted which allows the administration of furosemide or prednisolone sodium succinate within 4 hours before the officially scheduled post time for the race. Under no circumstances may a rule be adopted which allows the administration of phenylbutazone or any other synthetic corticosteroid within 24 hours before the officially scheduled post time for the race. Any administration of synthetic corticosteroids is limited to parenteral routes. Oral administration of synthetic corticosteroids is expressly prohibited. If this paragraph is unconstitutional, it is severable from the remainder of this section.~~

~~(e) The division shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.~~

(9)(a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division may take possession of the animal upon death for postmortem examination. The division may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the division laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner's option.

(10) The presence of a prohibited substance in an animal, found by the division laboratory in a bodily fluid specimen collected after the race or during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of postmortem examinations, testing, and disposal must be borne by the division.

(12) The division shall adopt rules to implement this section. ~~The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.~~

~~(13) Except as specifically modified by statute or by rules of the division, the Uniform Classification Guidelines for Foreign Substances, revised February 14, 1995, as promulgated by the Association of Racing Commissioners International, Inc., is hereby adopted by reference as the uniform classification system for class IV and V medications.~~

~~(14) The division shall utilize only the thin layer chromatography (TLC) screening process to test for the presence of class IV and V medications in samples taken from racehorses except when thresholds of a class IV or class V medication have been established and are enforced by rule. Once a sample has been identified as suspicious for a class IV or class V medication by the TLC screening process, the sample will be sent for confirmation by and through additional testing methods. All other medications not classified by rule as a class IV or class V agent shall be subject to all forms of testing available to the division.~~

~~(13)~~(15) The division may implement by rule medication levels for racing greyhounds recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the division that it has completed research or review on a particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.

~~(16) The testing medium for phenylbutazone in horses shall be serum, and the division may collect up to six full 15-milliliter blood tubes for each horse being sampled.~~

Section 2. This act shall take effect July 1, 2015.

Approved by the Governor June 2, 2015.

Filed in Office Secretary of State June 2, 2015.